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STATE OF NORTH CAROLINA

1977

Session Laws And Resolutions

PASSED BY THE

1977 GENERAL ASSEMBLY

AT ITS

FIRST SESSION

HELD IN THE CITY OF RALEIGH

BEGINNING ON

WEDNESDAY, THE TWELFTH DAY OF JANUARY, A.D. 1977

ISSUED BY
SECRETARY OF STATE THAD EURE

PUBLISHED BY AUTHORITY

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE GENERAL ASSEMBLY 1977

JAMES C. GREEN	President of the Senate	Bladen
CARL J. STEWART, JR.	Speaker of the House of Representatives	Gaston

EXECUTIVE DEPARTMENT

(Offices established by the Constitution, filled by election, and constituting the Council of State)

*JAMES B. HUNT, JR.	Governor	Wilson
*JAMES C. GREEN	Lt. Governor	Bladen
*THAD EURE	Secretary of State	Hertford
HENRY L. BRIDGES	Auditor	Guilford
HARLAN E. BOYLES	Treasurer	Wake
A. CRAIG PHILLIPS	Superintendent of Public Instruction	Guilford
*RUFUS L. EDMISTEN	Attorney General	Watauga
JAMES A. GRAHAM	Commissioner of Agriculture	Rowan
JOHN C. BROOKS	Commissioner of Labor	Wake
JOHN RANDOLPH INGRAM	Commissioner of Insurance	Randolph

*Renders direct services to the General Assembly.

The political affiliation of legislators and members of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Hunt are carried in the Appendix to this volume.

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GENERAL ASSEMBLY 1977

SENATE OFFICERS

Name	*Position*	*Address*
JAMES C. GREEN	President	Clarkton
JOHN T. HENLEY	President pro tempore	Hope Mills
SYLVIA M. FINK	Principal Clerk	Raleigh
LEROY CLARK, JR.	Reading Clerk	Wendell
VINSON BRIDGERS, JR.	Sergeant-at-Arms	Raleigh

SENATORS

DISTRICT	NAME	COUNTY	ADDRESS
1	MELVIN R. DANIELS, JR.	Pasquotank	Elizabeth City
1	JOSEPH J. HARRINGTON	Bertie	Lewiston
2	D. LIVINGSTONE STALLINGS	Craven	New Bern
3	JERRY POPKIN	Onslow	Jacksonville
4	WILLIAM GREY SMITH	New Hanover	Wilmington
5	HAROLD W. HARDISON	Lenoir	Deep Run
6	JULIAN R. ALLSBROOK	Halifax	Roanoke Rapids
6	VERNON E. WHITE	Pitt	Winterville
7	DALLAS L. ALFORD, JR.	Nash	Rocky Mount
7	JAMES D. SPEED	Franklin	Louisburg
8	HENSON P. BARNES	Wayne	Goldsboro
9	EDWARD RENFROW	Johnston	Smithfield
10	JOHN T. HENLEY	Cumberland	Hope Mills
10	JOE B. RAYNOR	Cumberland	Fayetteville
11	R.C. SOLES, JR.	Columbus	Tabor City
12	LUTHER J. BRITT, JR.	Robeson	Lumberton
13	KENNETH C. ROYALL, JR.	Durham	Durham
13	WILLIS P. WHICHARD	Durham	Durham
14	I. BEVERLY LAKE, JR.	Wake	Raleigh
14	*JOHN W. WINTERS, SR.	Wake	Raleigh
14	ROBERT W. WYNNE	Wake	Raleigh
15	GEORGE W. MARION, JR.	Surry	Dobson
15	WESLEY D. WEBSTER	Rockingham	Madison
16	CHARLES E. VICKERY	Orange	Chapel Hill
16	RUSSELL WALKER	Randolph	Asheboro
17	JAMES B. GARRISON	Stanly	Albemarle
17	ROBERT B. JORDAN, III	Montgomery	Mt. Gilead
18	RALPH H. SCOTT	Alamance	Haw River
19	MRS. RACHEL G. GRAY	Guilford	High Point
19	MRS. KATHERINE H. SEBO	Guilford	Greensboro
19	MCNEILL SMITH	Guilford	Greensboro
20	E. LAWRENCE DAVIS	Forsyth	Winston-Salem
20	CARL D. TOTHEROW	Forsyth	Winston-Salem
21	JACK CHILDERS	Davidson	Lexington
21	ROBERT VANCE SOMERS (R)	Rowan	Salisbury
22	FRED D. ALEXANDER	Mecklenburg	Charlotte
22	W. CRAIG LAWING	Mecklenburg	Charlotte
22	JAMES D. MCDUFFIE	Mecklenburg	Charlotte
22	**CAROLYN MATHIS (R)	Mecklenburg	Charlotte
23	T. CASS BALLENGER (R)	Catawba	Hickory
23	BOBBY LEE COMBS	Catawba	Hickory
24	DONALD R. KINCAID (R)	Caldwell	Lenoir
24	ROGER D. SHARPE	Burke	Morganton
25	OLLIE HARRIS	Cleveland	Kings Mountain
25	MRS. HELEN RHYNE MARVIN	Gaston	Gastonia
25	MARSHALL A. RAUCH	Gaston	Gastonia
26	I.C. CRAWFORD	Buncombe	Asheville
26	ROBERT STRINGFIELD SWAIN	Buncombe	Asheville
27	CECIL J. HILL	Transylvania	Brevard
27	JOE H. PALMER	Haywood	Clyde

*Resigned; Clarence Lightner, Raleigh, appointed August 9, 1977.
**Changed political affiliation to Democratic April 8, 1977.

HOUSE OFFICERS

Name	*Position*	*Address*
CARL J. STEWART, JR.	Speaker	Gastonia
H. HORTON ROUNTREE	Speaker pro tempore	Greenville
MRS. GRACE A. COLLINS	Principal Clerk	Fuquay-Varina
SAM J. BURROW, JR.	Reading Clerk	Asheboro
LARRY P. EAGLES	Sergeant-at-Arms	Tarboro

REPRESENTATIVES

DISTRICT	NAME	COUNTY	ADDRESS
1	VERNON G. JAMES	Pasquotank	Elizabeth City
1	W. STANFORD WHITE	Dare	Manns Harbor
2	HOWARD B. CHAPIN	Beaufort	Washington
3	CHRIS S. BARKER, JR.	Craven	New Bern
3	JOE L. BRIGHT	Craven	Vanceboro
3	DANIEL T. LILLEY	Lenoir	Kinston
4	G. MALCOLM FULCHER, JR.	Carteret	Atlantic Beach
4	MRS. WILDA HURST	Onslow	Hubert
4	RONALD EARL MASON	Carteret	Beaufort
5	ROBERTS H. JERNIGAN, JR.	Hertford	Ahoskie
5	J. GUY REVELLE, SR.	Northampton	Conway
6	GEORGE P. CULLIPHER	Martin	Williamston
6	GEORGE AUSTIN HUX	Halifax	Halifax
7	ALLEN C. BARBEE	Nash	Spring Hope
7	A. HARTWELL CAMPBELL	Wilson	Wilson
7	JOHN ED DAVENPORT	Nash	Nashville
7	JAMES E. EZZELL, JR.	Nash	Rocky Mount
8	SAM D. BUNDY	Pitt	Farmville
8	H. HORTON ROUNTREE	Pitt	Greenville
9	MRS. JOHN B. CHASE	Wayne	Eureka
9	RICHARD R. GRADY	Wayne	Seven Springs
10	THOMAS J. BAKER	Duplin	Wallace
11	ALLEN C. WARD	Brunswick	Shallotte
12	S. THOMAS RHODES (R)	New Hanover	Wilmington
12	BENJAMIN D. SCHWARTZ	New Hanover	Wilmington
13	JOHN T. CHURCH	Vance	Henderson
13	THOMAS W. ELLIS, JR.	Vance	Henderson
13	WILLIAM T. WATKINS	Granville	Oxford
14	JACK M. GARDNER	Johnston	Smithfield
14	BARNEY PAUL WOODARD	Johnston	Princeton
15	ALLEN ADAMS	Wake	Raleigh
15	MRS. RUTH E. COOK	Wake	Raleigh
15	WILLIAM A. CREECH	Wake	Raleigh
15	ROBERT L. FARMER	Wake	Raleigh
15	WILLIAM C. HOLROYD, JR.	Wake	Raleigh
15	JOSEPH E. JOHNSON	Wake	Raleigh
16	MRS. PATRICIA GRIFFIN	Durham	Durham
16	H.M. MICHAUX, JR.	Durham	Durham
16	GEORGE M. MILLER, JR.	Durham	Durham
17	EDWARD S. HOLMES	Chatham	Pittsboro
17	MRS. PATRICIA S. HUNT	Orange	Chapel Hill
18	CARSON GREGORY	Harnett	Angier
18	FLETCHER HARRIS	Lee	Sanford
19	EDD NYE	Bladen	Elizabethtown
19	GEORGE RONALD TAYLOR	Bladen	Elizabethtown
19	RICHARD WRIGHT	Columbus	Tabor City
20	R.D. BEARD	Cumberland	Fayetteville
20	CHARLES HOLT	Cumberland	Fayetteville
20	HECTOR E. RAY	Cumberland	Fayetteville
20	MRS. LURA S. TALLY	Cumberland	Fayetteville
20	HENRY M. TYSON	Cumberland	Fayetteville
21	JOY J. JOHNSON	Robeson	Fairmont
21	HORACE LOCKLEAR	Robeson	Lumberton
21	DAVID R. PARNELL	Robeson	Parkton
22	CONRAD RILEY DUNCAN, JR.	Rockingham	Stoneville
22	DANIEL A.C. HALL, JR.	Alamance	Burlington
22	W.S. HARRIS, JR.	Alamance	Graham
22	MRS. BERTHA MERRILL HOLT	Alamance	Burlington

23	Henry E. Frye	Guilford	Greensboro
23	Thomas O. Gilmore	Guilford	Greensboro
23	James F. Morgan	Guilford	High Point
23	Thomas B. Sawyer	Guilford	Greensboro
23	Mrs. Mary P. Seymour	Guilford	Greensboro
23	W. Marcus Short	Guilford	Greensboro
23	Charles E. Webb	Guilford	Greensboro
24	Harold J. Brubaker (R)	Randolph	Asheboro
24	J.T. Pugh, Jr.	Randolph	Asheboro
25	T. Clyde Auman	Moore	West End
26	Foyle Hightower, Jr.	Anson	Wadesboro
27	Thomas B. Hunter	Richmond	Rockingham
28	Porter C. Collins, Jr.	Alleghany	Laurel Springs
28	David H. Diamont	Surry	Pilot Mountain
28	J. Worth Gentry	Stokes	King
29	Judson David DeRamus, Jr.	Forsyth	Winston-Salem
29	Richard C. Erwin	Forsyth	Winston-Salem
29	Ted Kaplan	Forsyth	Winston-Salem
29	Ned R. Smith	Forsyth	Winston-Salem
29	Mrs. Margaret Tennille	Forsyth	Winston-Salem
30	Peter W. Hairston	Davie	Advance
30	J.E. Lambeth	Davidson	Thomasville
30	John Varner	Davidson	Lexington
31	Robie L. Nash	Rowan	Salisbury
31	A. Neal Smith	Rowan	Woodleaf
32	Mrs. Janet W. Pickler	Stanly	New London
33	Aaron W. Plyler	Union	Monroe
33	Dwight W. Quinn	Cabarrus	Kannapolis
33	Mrs. Betty Dorton Thomas	Cabarrus	Concord
34	James H. Edwards	Caldwell	Granite Falls
34	Albert Jennings Martin	Yadkin	Boonville
34	Eugene M. White	Caldwell	Hudson
35	J.P. Huskins	Iredell	Statesville
35	William H. McMillan	Iredell	Statesville
36	Mrs. Marilyn R. Bissell (R)	Mecklenburg	Charlotte
36	Mrs. Louise S. Brennan	Mecklenburg	Charlotte
36	Mrs. Ruth M. Easterling	Mecklenburg	Charlotte
36	Gus N. Economos	Mecklenburg	Charlotte
36	Mrs. Jo Graham Foster	Mecklenburg	Charlotte
36	H. Parks Helms	Mecklenburg	Charlotte
36	LeRoy P. Spoon, Jr. (R)	Mecklenburg	Charlotte
36	Ben Tison	Mecklenburg	Charlotte
37	J. Reid Poovey (R)	Catawba	Hickory
37	Mrs. Frances E. Setzer	Catawba	Newton
38	E. Graham Bell	Gaston	Gastonia
38	David W. Bumgardner, Jr.	Gaston	Belmont
38	John R. Gamble, Jr.	Lincoln	Lincolnton
38	Carl J. Stewart, Jr.	Gaston	Gastonia
39	Willis H. Lachot, Jr.	Burke	Morganton
39	Mrs. Myrtle E. Wiseman	Avery	Spruce Pine
40	Robert Z. Falls	Cleveland	Shelby
40	Robert A. Jones	Rutherford	Forest City
40	Mrs. Edith L. Lutz	Cleveland	Lawndale
41	Glenn A. Morris	McDowell	Marion
42	Fred R. Dorsey (R)	Henderson	East Flat Rock
43	James McClure Clarke	Buncombe	Fairview
43	Claude DeBruhl	Buncombe	Candler
43	Gordon H. Greenwood	Buncombe	Black Mountain
43	Mrs. Mary C. Nesbitt	Buncombe	Asheville
44	Ernest B. Messer	Haywood	Canton
44	Liston B. Ramsey	Madison	Marshall
45	Jeff H. Enloe, Jr.	Macon	Franklin

LEGISLATIVE SERVICES COMMISSION

SENATOR JOHN T. HENLEY, *Co-Chairman*

SPEAKER CARL J. STEWART, JR., *Co-Chairman*

SEN. JAMES B. GARRISON	REP. HENRY E. FRYE
SEN. HAROLD W. HARDISON	REP. GORDON H. GREENWOOD
SEN. JOSEPH J. HARRINGTON	REP. EDWARD S. HOLMES
SEN. JOE H. PALMER	REP. DWIGHT W. QUINN
SEN. MARSHALL A. RAUCH	REP. H. HORTON ROUNTREE
SEN. KENNETH C. ROYALL, JR.	REP. MARGARET TENNILLE

LEGISLATIVE SERVICES STAFF

CLYDE L. BALL ..... Legislative Services Officer

WILLIAM H. POTTER, JR. ..... Director of Research

JOHN ALLEN ..... Director of Fiscal Research

CONSTITUTION

OF THE

State of North Carolina

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

SECTION 1. *The equality and rights of persons.* We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. *Sovereignty of the people.* All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. *Internal government of the State.* The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

SEC. 4. *Secession prohibited.* This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

SEC. 5. *Allegiance to the United States.* Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. *Separation of powers.* The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

SEC. 7. *Suspending laws.* All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

SEC. 8. *Representation and taxation.* The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

SEC. 9. *Frequent elections.* For redress of grievances and for amending and strengthening the laws, elections shall be often held.

SEC. 10. *Free elections.* All elections shall be free.

SEC. 11. *Property qualifications.* As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

SEC. 12. *Right of assembly and petition.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

SEC. 13. *Religious liberty.* All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

SEC. 14. *Freedom of speech and press.* Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

SEC. 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 16. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

SEC. 17. *Slavery and involuntary servitude.* Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

SEC. 18. *Courts shall be open.* All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

SEC. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

SEC. 20. *General warrants.* General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

SEC. 21. *Inquiry into restraints on liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

SEC. 22. *Modes of prosecution.* Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

SEC. 23. *Rights of accused.* In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

SEC. 24. *Right of jury trial in criminal cases.* No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

SEC. 25. *Right of jury trial in civil cases.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

SEC. 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

SEC. 27. *Bail, fines, and punishments.* Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 28. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 29. *Treason against the State.* Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 30. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

SEC. 31. *Quartering of soldiers.* No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 32. *Exclusive emoluments.* No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 33. *Hereditary emoluments and honors.* No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

SEC. 34. *Perpetuities and monopolies.* Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

SEC. 35. *Recurrence to fundamental principles.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 36. *Other rights of the people.* The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

LEGISLATIVE

SECTION 1. *Legislative power.* The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

SEC. 2. *Number of Senators.* The Senate shall be composed of 50 Senators, biennially chosen by ballot.

SEC. 3. *Senate districts; apportionment of Senators.* The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 4. *Number of Representatives.* The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

SEC. 5. *Representative districts; apportionment of Representatives.* The Representatives shall be elected from districts. The General Assembly, at the first regular session

convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district.

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 6. *Qualifications for Senator.* Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

SEC. 7. *Qualifications for Representative.* Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

SEC. 8. *Elections.* The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

SEC. 9. *Term of office.* The term of office of Senators and Representatives shall commence at the time of their election.

SEC. 10. *Vacancies.* Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

SEC. 11. *Sessions.*

(1) *Regular sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

SEC. 12. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

SEC. 13. *President of the Senate.* The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

SEC. 14. *Other officers of the Senate.*

(1) *President Pro Tempore – succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore – temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other Officers.* The Senate shall elect its other officers.

SEC. 15. *Officers of the House of Representatives.* The House of Representatives shall elect its Speaker and other officers.

SEC. 16. *Compensation and allowances.* The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

SEC. 17. *Journals.* Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

SEC. 18. *Protests.* Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

SEC. 19. *Record votes.* Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

SEC. 20. *Powers of the General Assembly.* Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

SEC. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina enacts:".

SEC. 22. *Action on bills.* All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

SEC. 23. *Revenue bills.* No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

SEC. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

(a) Relating to health, sanitation, and the abatement of nuisances;

(b) Changing the names of cities, towns, and townships;

(c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;

(d) Relating to ferries or bridges;

(e) Relating to non-navigable streams;

(f) Relating to cemeteries;

(g) Relating to the pay of jurors;

(h) Erecting new townships, or changing townships lines, or establishing or changing the lines of school districts;

(i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;

(j) Regulating labor, trade, mining, or manufacturing;

(k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;

(l) Giving effect to informal wills and deeds;

(m) Granting a divorce or securing alimony in any individual case;

(n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

EXECUTIVE

SECTION 1. *Executive power.* The executive power of the State shall be vested in the Governor.

SEC. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to either of these two offices shall be elibible for election to the next succeeding term of the same office.

SEC. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its

members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

SEC. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

SEC. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers,

and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

SEC. 6. *Duties of the Lieutenant Governor.* The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

SEC. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

SEC. 8. *Council of State.* The Council of State shall consist of the officers whose offices are established by this Article.

SEC. 9. *Compensation and allowances.* The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

SEC. 10. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina," and signed by the Governor.

SEC. 11. *Administrative departments.* Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

JUDICIAL

SECTION 1. *Judicial power.* The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

SEC. 2. *General Court of Justice.* The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

SEC. 3. *Judicial powers of administrative agencies.* The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

SEC. 4. *Court for the Trial of Impeachments.* The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

SEC. 5. *Appellate division.* The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

SEC. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

SEC. 7. *Court of Appeals.* The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

SEC. 8. *Retirement of Justices and Judges.* The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

SEC. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

SEC. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for

which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

SEC. 11. *Assignment of Judges.* The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

SEC. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

SEC. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

SEC. 14. *Waiver of jury trial.* In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

SEC. 15. *Administration.* The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

SEC. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

SEC. 17. *Removal of Judges, Magistrates and Clerks.*

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from of-

fice for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

SEC. 18. *District Attorney and prosecutorial districts.*

(1) *District Attorneys.* The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

SEC. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

SEC. 20. *Revenues and expenses of the judicial department.* The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

SEC. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

ARTICLE V

FINANCE

SECTION 1. *No capitation tax to be levied.* No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

SEC. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding $300, any personal property. The General Assembly may exempt from taxation not exceeding $1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

(7) *Contracts.* The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

SEC. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections, or to repel invasions;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for purpose authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

SEC. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local

Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

SEC. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

SEC. 8. *Health care facilities.* Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

SEC. 9. *Capital projects for industry.* Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

SECTION 1. *Who may vote.* Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set

out in this article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

SEC. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

SEC. 3. *Registration.* Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

SEC. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

SEC. 5. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

SEC. 6. *Eligibility to elective office.* Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

SEC. 7. *Oath.* Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as . . . . . ., so help me God."

SEC. 8. *Disqualifications for office.* The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

SEC. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

SEC. 10. *Continuation in office.* In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

LOCAL GOVERNMENT

SECTION 1. *General Assembly to provide for local government.* The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any

other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

SEC. 2. *Sheriffs.* In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

SEC. 3. *Merged or consolidated counties.* Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

CORPORATIONS

SECTION 1. *Corporate charters.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

SEC. 2. *Corporations defined.* The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

SECTION 1. *Education encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

SEC. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

SEC. 3. *School attendance.* The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

SEC. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

SEC. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

SEC. 6. *State school fund.* The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

SEC. 7. *County school fund.* All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

SEC. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the

trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

SEC. 9. *Benefits of public institutions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

SEC. 10. *Escheats.*

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

SECTION 1. *Personal property exemptions.* The personal property of any resident of this State, to a value fixed by the General Assembly but not less than $500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

SEC. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than $1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of widow.* If the owner of a homestead dies, leaving a widow but no children, the homestead shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she is the owner of a homestead in her own right.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by

the owner of a homestead shall be valid without the signature and acknowledgement of his wife.

SEC. 3. *Mechanics' and laborers' liens.* The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

SEC. 4. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

SEC. 5. *Insurance.* The husband may insure his own life for the sole use and benefit of his wife or children or both, and upon his death the proceeds from the insurance shall be paid to or for the benefit of the wife or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his estate. Any insurance policy which insures the life of a husband for the sole use and benefit of his wife or children or both shall not be subject to the claims of creditors of the insured during his lifetime, whether or not the policy reserves to the insured during his lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

SECTION 1. *Punishments.* The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

SEC. 2. *Death punishment.* The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

SEC. 3. *Charitable and correctional institutions and agencies.* Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

SEC. 4. *Welfare policy; board of public welfare.* Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

SECTION 1. *Governor is Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

SECTION 1. *Convention of the People.* No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

SEC. 2. *Power to revise or amend Constitution reserved to people.* The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

SEC. 3. *Revision or amendment by Convention of the People.* A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

SEC. 4. *Revision or amendment by legislative initiation.* A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional

amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

MISCELLANEOUS

SECTION 1. *Seat of government.* The permanent seat of government of this State shall be at the City of Raleigh.

SEC. 2. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are.

SEC. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

SEC. 4. *Continuity of laws; protection of office holders.* The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

SEC. 5. *Conservation of natural resources.* It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve", and which shall not be used for other purposes except as

authorized by the law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

SESSION LAWS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 1977

H. B. 8 **CHAPTER 1**

AN ACT TO AMEND CHAPTER 263 OF THE 1975 SESSION LAWS TO DELETE POLK COUNTY FROM THE MODIFIED SUBDIVISION CONTROL ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 263 of the 1975 Session Laws is hereby rewritten to read as follows:

"Sec. 2. This act shall apply only to Rutherford County."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of February, 1977.

H. B. 33 **CHAPTER 2**

AN ACT TO CORRECT AN ERRONEOUS CITATION TO THE NORTH CAROLINA CONSTITUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-370 as the same appears in the 1969 Replacement Volume 1A of the General Statutes is hereby amended on line four by deleting the word and figures "article X, § 8" and inserting in lieu thereof the following "article X, § 2(4)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1977.

H. B. 36 **CHAPTER 3**

AN ACT TO AMEND CHAPTER 49 OF THE GENERAL STATUTES TO MAKE INADEQUATE SUPPORT OF ILLEGITIMATE CHILD BY PARENTS A MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 49-2 is hereby amended by inserting in line 1 thereof between the words "to" and "support" the words "provide adequate".

Sec. 2. G.S. 49-7 is hereby amended by inserting in line 5 thereof between the word "to" and "support" the words "provide adequate."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1977.

H. B. 24 **CHAPTER 4**

AN ACT TO AMEND ARTICLE 7 OF CHAPTER 110 OF THE GENERAL STATUTES, ENTITLED "DAY-CARE FACILITIES" TO PROVIDE CHANGES IN THE DEFINITION OF DAY CARE AND TO PROVIDE THAT THE COMMISSION SHALL HAVE THE POWER TO SEEK INJUNCTIVE RELIEF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-86(2), as it appears in the 1975 Replacement of Volume 3A of the General Statutes, is rewritten to read as follows:

"(2) 'Day care' includes any child-care arrangement under which a child less than 13 years of age receives care away from his own home by persons other than his parents, grandparents, guardians or full-time custodians."

Sec. 2. G.S. 110-86(3), as it appears in the 1975 Replacement of Volume 3A of the General Statutes, is rewritten to read as follows:

"(3) 'Day-care facility' includes any day-care center or child-care arrangement which provides day care on a regular basis for more than four hours per day for more than five children, wherever operated and whether or not operated for profit, except that the following are not included: public schools; nonpublic schools whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods."

Sec. 3. G.S. 110-86(4), as it appears in the 1975 Replacement of Volume 3A of the General Statutes, is amended by deleting the words "and receives a payment, fee or grant for any of the children receiving care" from lines 3 and 4 thereof.

Sec. 4. G.S. 110-93(d), as it appears in the 1975 Cumulative Supplement to Volume 3A of the General Statutes, is amended by changing the period (.) at the end thereof to a comma (,) and by adding the following:

"but shall be subject to injunction as provided in G.S. 110-104."

Sec. 5. Article 7 of Chapter 110 of the General Statutes is hereby amended by adding a new section to be designated G.S. 110-104 and to read as follows:

"§ 110-104. *Injunctive relief.*—The secretary or his designee is empowered to seek injunctive relief in the superior court of the county in which a day-care center is located against the continuing operation of that day-care facility at anytime, whether or not any administrative proceedings are pending. The superior court may grant injunctive relief, temporary, preliminary or permanent when there is any violation of this Article, or of the rules and regulations promulgated by the commission, which threatens serious harm to children in the day-care facility or when a final order to deny or revoke a license has been violated."

Sec. 6. Article 7 of Chapter 110 is hereby amended by inserting a new section to be designated G.S. 110-98.1 and to read as follows:

"§ 110-98.1. *Prima facie evidence of existence of day-care facility.*—A child-care arrangement providing day care for more than five children for more than four hours per day on two or more consecutive days shall be prima facie evidence of the existence of a day-care facility."

Sec. 7. G.S. 105-60, as it appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes, is amended by rewriting the first sentence to read as follows:

"Every person, firm or corporation engaged in operating a day-care facility as defined by G.S. 110-86(3) shall pay an annual license tax for the privilege of operating a day-care facility."

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1977.

H. B. 9 CHAPTER 5

AN ACT TO AMEND CHAPTER 224 OF THE PRIVATE LAWS, 1901, RELATING TO THE CHARTER OF THE TOWN OF ELLENBORO IN RUTHERFORD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 19 of Chapter 224 of the Private Laws of 1901 is amended by striking out in line 4 of said section the words "not to exceed fifty thousand dollars".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of February, 1977.

S. B. 15 **CHAPTER 6**

AN ACT TO AMEND CHAPTER 1057 OF THE SESSION LAWS OF 1973 SO AS TO MAKE PERMANENT THE PROVISIONS OF G.S. 20-7(f), REGARDING THE ELIMINATION OF ROAD AND WRITTEN TESTS FOR SAFE DRIVERS APPLYING FOR RENEWAL OF OPERATOR'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1057 of the Session Laws of 1973 is hereby rewritten to read as follows:

"Sec. 3. This act shall be in full force and effect from and after June 1, 1974."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1977.

H. B. 29 **CHAPTER 7**

AN ACT TO PERMIT A PHYSICIAN OR SURGEON TO PERFORM A STERILIZATION OPERATION WITHOUT CONSULTATION WITH ANOTHER PHYSICIAN OR SURGEON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-271 as it appears in the 1975 Replacement Volume 2C of the General Statutes is hereby amended by striking out the language "and acting in collaboration or consultation with at least one or more physicians or surgeons so licensed," where such language appears immediately following the word "State" in line 1 and immediately preceding the word "when" in line 3.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1977.

H. B. 57 **CHAPTER 8**

AN ACT TO CHANGE THE TERMS OF THE ELIZABETH CITY-PASQUOTANK BOARD OF EDUCATION MEMBERS TO FOUR YEARS AND TO ALLOW SIXTY DAYS TO FILL VACANCIES.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 29 of the 1967 Session Laws is hereby amended by deleting from the fifth line of the fifth paragraph the word "six" and substituting in lieu thereof the word "four", and further amended by deleting from the last line of the fifth paragraph the number "30" and substituting in lieu thereof the number "60".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1977.

S. B. 49 **CHAPTER 9**

AN ACT TO EXTEND TICKET SCALPING LAW TO INCLUDE MUSICAL CONCERTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-344 is rewritten to read as follows:

"§ 14-344. *Sale of athletic contest and musical concert tickets in excess of printed price.*—It shall be unlawful for any person, firm or corporation to sell or offer for sale any ticket of admission to any musical concert, baseball, basketball, football game or other athletic contest of any kind in excess of the sale price written or printed on such ticket or tickets. Any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1977.

H. B. 109 **CHAPTER 10**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner is hereby abolished in Currituck County effective upon ratification.

Sec. 2. The office of coroner is hereby abolished in Pasquotank County effective December 31, 1978.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1977.

S. B. 62 **CHAPTER 11**

AN ACT TO ESTABLISH THE GOVERNOR'S CRIME COMMISSION BY AMENDING AND REWRITING G.S. 143B-337 AND RENAMING, RESTRUCTURING AND REDEFINING THE PURPOSES OF THE GOVERNOR'S LAW AND ORDER COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-337 is rewritten to read as follows:

"PART 23.

"Governor's Crime Commission.

"§ 143B-337. *Governor's Crime Commission: creation, composition, terms, meetings, etc.*—(a) There is hereby created the Governor's Crime Commission of the Department of Crime Control and Public Safety. The commission shall consist of 29 voting members and six nonvoting members. The composition of the commission shall be as follows:

(1) The voting members shall be:

a. the Governor, the Chief Justice of the Supreme Court of North Carolina (or his alternate), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department

of Human Resources, and the Secretary of the Department of Correction;

b. a judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, and a district attorney;

c. a defense attorney, three sheriffs (one of whom shall be from a 'high crime area'), three police executives (one of whom shall be from a 'high crime area'), four citizens (two with knowledge of juvenile delinquency and the public school system, one representative of a 'private juvenile delinquency program', and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;

d. one member of the North Carolina House of Representatives and one member of the North Carolina State Senate.

(2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Director of the Division of Youth Services of the Department of Human Resources, the Administrator for Juvenile Services of the Administrative Office of the Courts, the Director of the Division of Prisons and the Director of the Division of Adult Probation and Paroles.

(b) The membership of the commission shall be selected as follows:

(1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Human Resources, the Secretary of the Department of Correction, the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Director of the Division of Prisons, the Director of the Division of Adult Probation and Paroles, the Director of the Division of Youth Services and the Administrator for Juvenile Services of the Administrative Office of the Courts. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

(2) The following members shall be appointed by the Governor: the district attorney, the defense attorney, the three sheriffs, the three police executives, the four citizens, the three county commissioners or county officials, the three mayors or municipal officials.

(3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the Judge of Superior Court, the judge of district court specializing in juvenile matters, and the Chief District Court Judge.

(4) The member of the House of Representatives shall be appointed by the Speaker of the House of Representatives and the member of the Senate shall be appointed by the Lieutenant Governor. These members shall perform the advisory review of the state plan for the General Assembly

as permitted by Section 206 of the Crime Control Act of 1976 (PL 94-503).

(5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the commission shall be those appointed pursuant to subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The commission members from the House and Senate shall serve two-year terms effective March 1, of each odd-numbered year; and they shall not be disqualified from commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the commission. Any other commission member no longer serving in the office from which he qualified for appointment shall be disqualified from membership on the commission. Any appointment to fill a vacancy on the commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the commission for misfeasance, malfeasance or nonfeasance.

(e) The commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business."

Sec. 2. G.S. 143B-338 is hereby rewritten to read as follows:

"§ 143B-338. *Governor's Crime Commission: powers and duties.*—(a) The Governor's Crime Commission shall have the following powers and duties:

(1) To serve, along with its adjunct committees, as the chief advisory board to the Governor and to the Secretary of the Department of Crime Control and Public Safety on matters pertaining to the criminal justice system.

(2) To develop a comprehensive statewide plan for the improvement of criminal justice throughout the State which is consistent with and serves to foster the following established goals of the criminal justice system:

a. to reduce crime,

b. to protect individual rights,

c. to achieve justice,

d. to increase efficiency in the criminal justice system,

e. to promote public safety,

f. to provide for the administration of a fair and humane system which offers reasonable opportunities for adjudicated offenders to develop progressively responsible behavior, and

g. to increase professional skills of criminal justice officers.

(3) To assist and participate with the State and local law enforcement agencies in improving law enforcement and the administration of criminal justice;

(4) To make studies and recommendations for the improvement of law enforcement and the administration of criminal justice;

(5) To encourage public support and respect for the criminal justice system in North Carolina;

(6) To seek ways to continue to make North Carolina a safe and secure State for its citizens;

(7) To accept gifts, bequests, devises, grants, matching funds, and other considerations from private or governmental sources for use in promoting its work;

(8) To set objectives and priorities for the improvement of law enforcement and criminal justice throughout the State;

(9) To make grants for use in pursuing its objectives, under such conditions as are deemed to be necessary;

(10) To serve as a coordinating committee and forum for discussion of recommendations from its adjunct committees formed pursuant to G.S. 143B-339; and

(11) To serve as the primary channel through which local law enforcement departments and citizens can lend their advice, and state their needs, to the Department of Crime Control and Public Safety.

(b) The commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for criminal justice purposes which may be made available for the State by the federal government. The Governor's Crime Commission shall be the single State agency responsible for establishing policy, planning and carrying out the State's duties with respect to all grants to the State by the Law Enforcement Assistance Administration of the United States Department of Justice. In respect to such grants, the commission shall have authority to review, approve and maintain general oversight of the state plan and its implementation, including subgrants and allocations to local units of government.

All decisions and grants heretofore made by the Governor's Law and Order Commission shall remain in full force and effect unless and until repealed or superseded by action of the Governor's Crime Commission established herein. The present Governor's Commission on Law and Order is terminated on February 28, 1977, and its powers, duties, and responsibilities vest in the Governor's Crime Commission effective March 1, 1977. All directives of the Governor's Crime Commission shall be administered by the Director, Crime Control Division of the Department of Crime Control and Public Safety."

Sec. 3. G.S. 143B-339 is hereby rewritten to read as follows:

"§ 143B-339. *Adjunct Committees of the Governor's Crime Commission: creation, purpose, powers and duties.*—(a) There are hereby created by way of extension and not limitation, the following adjunct committees of the Governor's Crime Commission: the Crime Prevention and Public Information Committee, the Judicial Planning Committee, the Juvenile Justice Planning Committee, the Law Enforcement Planning Committee, the Corrections Planning Committee, and the Juvenile Code Revision Committee.

(b) The composition of the adjunct committees shall be as designated by the Governor by executive order, except for the Judicial Planning Committee, the composition of which shall be designated by the Supreme Court. The Governor's appointees shall serve two-year terms beginning March 1, of each odd-numbered year, and members of the Judicial Planning Committee shall serve at the pleasure of the Supreme Court.

(c) The adjunct committees created herein shall report directly to the Governor's Crime Commission and shall have the following powers and duties:

(1) The Crime Prevention and Public Information Committee shall advise the Governor's Crime Commission on the most appropriate and effective methods to foster public awareness of the role of individual citizens, businesses, and community organizations in the prevention and reporting of crime and to foster public awareness of the ability and responsibility of individuals to have an impact on the crime problem; it shall also advise the Governor's Crime Commission on the most appropriate and effective methods of preventing crime, on mobilizing the citizenry through 'Community Watch' and other related programs to prevent crime, and on educating the public about the nature of particular crimes and the most effective methods of preventing them.

(2) The Law Enforcement Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to law enforcement, including detention; shall participate in the development of the law enforcement component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of law enforcement services; and shall offer technical assistance to State and local agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of law enforcement services.

(3) The Judicial Planning Committee (which shall be appointed by the Supreme Court) shall establish court improvement priorities, define court improvement programs and projects, and develop an annual judicial plan in accordance with the Crime Control Act of 1976 (PL 94-503); shall advise the Governor's Crime Commission on all matters which are referred to it relevant to the courts; shall consider and recommend priorities for the improvement of judicial services; and shall offer technical assistance to State agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of judicial services.

(4) The Corrections Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to corrections; shall participate in the development of the adult corrections component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of correction services; and shall offer technical assistance to State agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of corrections.

(5) The Juvenile Justice Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to juvenile justice; shall participate in the development of the juvenile justice component of the State's comprehensive plan; shall consider and

recommend priorities for the improvement of juvenile justice services; and shall offer technical assistance to State and local agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of juvenile justice.

(6) The Juvenile Code Revision Committee shall study problems relating to young people who come within the juvenile jurisdiction of the district court as defined by Article 23 of Chapter 7A of the General Statutes and develop a legislative plan which will best serve the needs of young people and protect the interests of the State; shall study the existing laws, services, agencies and commissions and recommend whether they should be continued, amended, abolished or merged; and shall take steps to insure that all agencies, organizations, and private citizens in the State of North Carolina have an opportunity to lend advice and suggestions to the development of a revised juvenile code. If practical, the committee shall submit a preliminary report to the General Assembly prior to its adjournment in 1977. It shall make a full and complete report to the General Assembly by March 1, 1979. This adjunct committee shall terminate on February 28, 1979.

(d) The Governor shall have the power to remove any member of any adjunct committee from the committee for misfeasance, malfeasance or nonfeasance. Each committee shall meet at the call of the chairman or upon written request of one-third of its membership. A majority of a committee shall constitute a quorum for the transaction of business.

(e) The actions and recommendations of each adjunct committee shall be subject to the final approval of the Governor's Crime Commission."

Sec. 4. Chapter 143B of the General Statutes is amended by adding a new Section 340 as follows:

"§ 143B-340. *Crime Control Division of the Department of Crime Control and Public Safety.*—(a) There is hereby established, within the Department of Crime Control and Public Safety, the Crime Control Division, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Crime Control Division shall provide clerical and professional services required by the Governor's Crime Commission and shall administer the State Law Enforcement Assistance Program and such additional related programs as may be established by or assigned to the commission. It shall serve as the single State planning agency for purposes of the Crime Control Act of 1976 (PL94-503). Administrative responsibilities shall include, but are not limited to, the following:

(1) compiling data, establishing needs and setting priorities for funding and policy recommendations for the commission;

(2) preparing and revising statewide plans for adoption by the commission which are designed to improve the administration of criminal justice and to reduce crime in North Carolina;

(3) advising State and local interests of opportunities for securing federal assistance for crime reduction and for improving criminal justice administration and planning within the State of North Carolina;

(4) stimulating and seeking financial support from federal, State, and local government and private sources for programs and projects which

implement adopted criminal justice administration improvement and crime reduction plans;

(5) assisting State agencies and units of general local government and combinations thereof in the preparation and processing of applications for financial aid to support improved criminal justice administration, planning and crime reduction;

(6) encouraging and assisting coordination at the federal, State, and local government levels in the preparation and implementation of criminal justice administration improvements and crime reduction plans;

(7) applying for, receiving, disbursing, and auditing the use of funds received for the program from any public and private agencies and instrumentalities for criminal justice administration, planning, and crime reduction purposes;

(8) entering into, monitoring, and evaluating the results of contracts and agreements necessary or incidental to the discharge of its assigned responsibilities;

(9) providing technical assistance to State and local law enforcement agencies in developing programs for improvement of the law enforcement and criminal justice system; and

(10) taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities.

(c) The Crime Control Division shall also provide professional and clerical staff services to the adjunct committees of the Governor's Crime Commission established in G.S. 143B-339."

Sec. 5. This act shall become effective on March 1, 1977. Prior to the creation of the Department of Crime Control and Public Safety, the Governor's Crime Commission shall be a part of the Department of Natural and Economic Resources; and the professional and clerical responsibilities vested by this act in the Division of Crime Control of the Department of Crime Control and Public Safety shall continue to be vested in the Law and Order Section of the Department of Natural and Economic Resources. Until such time as the Department of Crime Control and Public Safety is created, all references in this act to the Department of Crime Control and Public Safety shall be deemed to refer to the Department of Natural and Economic Resources.

Sec. 6. All other laws and parts of laws in conflict with this act are repealed.

Sec. 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

In the General Assembly read three times and ratified, this the 15th day of February, 1977.

S. B. 25 **CHAPTER 12**

AN ACT TO AMEND G.S. 1-84 TO PROVIDE FOR REMOVAL OF A CIVIL CAUSE TO ANY ADJACENT COUNTY, IF THE SAME IS NECESSARY TO ENSURE A FAIR TRIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-84 as the same appears in the 1975 Cumulative Supplement to Volume 1A of the General Statutes is hereby amended and rewritten to read as follows:

"§ 1-84. *Removal for fair trial.*—In all civil actions in the superior and district courts, when it is suggested on oath or affirmation on behalf of the plaintiff or defendant, that there are probable grounds to believe that a fair and impartial trial cannot be obtained in the county in which the action is pending, the judge may order a copy of the record of the action removed for trial to any adjacent county, if he is of the opinion that a fair trial cannot be had in said county, after hearing all the testimony offered on either side by oral evidence or affidavits."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1977.

H. B. 113 **CHAPTER 13**

AN ACT PROHIBITING THE DISCHARGE OF FIREARMS ON OR ACROSS ANY HIGHWAY IN ASHE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take or kill any species of wild animal or wild bird by the use of any loaded firearm or other lethal weapon from the roadway or right-of-way of any State-maintained road or highway, or to discharge a firearm or other lethal weapon across any such road or highway in Ashe County.

Sec. 2. Any violation of this act shall be a misdemeanor, punishable by a fine of not more than fifty dollars ($50.00), or imprisonment for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 3. All peace officers of the county and State, including wildlife protectors, are hereby authorized, and it shall be their duty to aid in the enforcement of this act.

Sec. 4. All laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1977.

H. B. 114

CHAPTER 14

AN ACT TO AMEND THE SESSION LAWS OF 1967 TO PROVIDE FOR THE ENFORCEMENT OF THE ALLEGHANY COUNTY LOCAL FIREARMS ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 477 of the Session Laws of 1967 is hereby amended by adding a new sentence at the end thereof to read as follows:

"All peace officers of the county and State, including wildlife protectors, are hereby authorized, and it shall be their duty to enforce this act."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1977.

S. B. 5

CHAPTER 15

AN ACT TO AMEND SECTIONS 2, 19, 20 and 26 OF CHAPTER 388 OF THE 1973 SESSION LAWS CONCERNING THE WINSTON-SALEM FIRE-PUBLIC SAFETY RETIREMENT FUND ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. Subsections 2(a) and (b) of Section 2 of Chapter 388 of the 1973 Session Laws entitled "An Act to Establish Winston-Salem Fire-Public Safety Retirement Fund Association" are rewritten to read as follows:

"(a) As of January 1, 1977, any person who is a member of the Association following the close of business of the Association on December 31, 1976;

(b) As of January 1, 1977, and thereafter, any person not covered under (a) above who shall be regularly and continuously employed full time by the Fire Department of the City of Winston-Salem (hereinafter referred to as the Fire Department), including any Fire Department mechanic or electrician, or by the Bureau of Public Safety of the City of Winston-Salem (hereinafter referred to as the Bureau of Public Safety), and who shall have attained his twenty-first birthday and shall not have attained his thirtieth birthday. For the purpose of this subsection (b), regular and continuous employment by the Bureau of Public Safety followed immediately by regular and continuous employment by the Fire Department shall be deemed to be regular and continuous employment by the Fire Department, and regular and continuous employment by the Fire Department followed immediately by regular and continuous employment by the Bureau of Public Safety shall be deemed to be regular and continuous employment by the Bureau of Public Safety."

Sec. 2. The second paragraph of Section 19 is rewritten to read as follows:

"In the case of a member who retires on or before June 30, 1974, such pension shall be seventy-five dollars ($75.00) per month; and in the case of a member who retires on or after July 1, 1974, and on or before December 31, 1976, such pension shall be one hundred dollars ($100.00) per month; provided, that on and after January 1, 1977, the amount of such monthly pension received by any member retired prior to such date shall be increased by ten percent (10%) of the amount of such monthly pension received prior to such date. In the case of a member who retires on or after January 1, 1977, such pension shall be one

hundred thirty-five dollars ($135.00) per month. Payments shall be subject to the provisions of Section 18 of this act."

Sec. 3. The second paragraph of Section 20 is rewritten to read as follows:

"In the case of such a disabled participant who retires before June 30, 1974, such monthly benefit shall be equivalent to three dollars ($3.00) multiplied by the number of full years of his service in the employment of the city, not to exceed seventy-five dollars ($75.00) per month. In the case of such a disabled member who retires on or after July 1, 1974, and on or before December 31, 1976, such monthly benefit shall be equivalent to four dollars ($4.00) multiplied by the number of full years of his service in the employment of the city, not to exceed one hundred dollars ($100.00) per month. In the case of such a disabled member who retires on or after January 1, 1977, such monthly benefit shall be equivalent to five dollars and forty cents ($5.40) multiplied by the number of full years of his service in the employment of the city, not to exceed one hundred thirty-five dollars ($135.00) per month. Payments shall be subject to the provisions of Section 18 of this act."

Sec. 4. Section 26 is amended by deleting from the first sentence thereof the words "length of service or".

Sec. 5. This act shall become effective upon ratification, and shall govern eligibility to become a member of the Winston-Salem Fire-Public Safety Retirement Fund Association and the payment of benefits to members entitled thereto from and after January 1, 1977.

In the General Assembly read three times and ratified, this the 18th day of February, 1977.

S. B. 7 CHAPTER 16

AN ACT TO AMEND CHAPTER 388, SESSION LAWS OF 1975 TO REDUCE THE NUMBER OF COMMISSIONERS OF THE TOWN OF RAYNHAM FROM FIVE TO THREE, AND TO STAGGER THE TERMS OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 388, Session Laws of 1975, is hereby amended by rewriting Section 3 thereof to read as follows:

"Sec. 3. The Board of Commissioners of the Town of Raynham shall consist of three members beginning on the first Monday in December, 1979. The members shall be elected for staggered terms as provided in Section 4 of this act. The mayor of the town shall be elected for a term of two years."

Sec. 2. Chapter 388, Session Laws of 1975 is further amended by rewriting Section 4 thereof to read as follows:

"Sec. 4. Beginning with the regular municipal election to be held in 1979, the two candidates for town commissioner receiving the highest number of votes shall be elected for terms of four years, and the candidate receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as the term of each member expires, his successor shall be elected for a term of four years."

Sec. 3. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1977.

H. B. 37 **CHAPTER 17**

AN ACT TO REPEAL CHAPTER 42 OF THE 1935 PUBLIC-LOCAL LAWS RELATING TO JUNIOR TRAFFIC OFFICERS FOR THE CITY OF WILMINGTON AND NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 42 of the 1935 Public-Local Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1977.

H. B. 47 **CHAPTER 18**

AN ACT TO DELETE THE PROVISION IN G.S. 18A-56 THAT MAKES IT A MISDEMEANOR TO VIOLATE A RULE OF THE ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-56(a) as the same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by deleting the words ", or any rule or regulation promulgated pursuant thereto,".

Sec. 2. G.S. 18A-56(c) as the same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by deleting the words "or any rule or regulation promulgated pursuant thereto,".

Sec. 3. Anyone who has been convicted of a misdemeanor for a violation of a rule or regulation promulgated by the State A.B.C. Board as provided in G.S. 18A-56(a) and G.S. 18A-56(c) as the same appeared in the 1975 Replacement Volume 1C of the General Statutes shall have the record of that violation expunged upon application to the court wherein the confiction was rendered.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1977.

H. B. 49 **CHAPTER 19**

AN ACT TO AUTHORIZE PERSONS 17 YEARS OF AGE TO VOTE IN PRESIDENTIAL PREFERENCE PRIMARY IF THEY WILL BE QUALIFIED TO VOTE IN THE GENERAL ELECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-213.2 is hereby amended by adding a new paragraph thereto to read:

"Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may register not earlier than 60 days nor later than 21 days prior to the said primary."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1977.

H. B. 84 **CHAPTER 20**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF PIKEVILLE, CHAPTER 108, PRIVATE LAWS 1891, TO PROVIDE FOR THE ELECTION OF THE MAYOR AND MEMBERS OF THE BOARD OF COMMISSIONERS FOR TERMS OF FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 108, Private Laws of 1891, is hereby rewritten to read as follows:

"Sec. 3. The elected officers of the Town of Pikeville shall be a mayor and a board of commissioners consisting of five members.

Beginning with the regular municipal election to be held in 1977, the mayor shall be elected for a term of four years and the members of the board of commissioners shall be elected for staggered terms of four years as herein provided. In the 1977 election, the two candidates for commissioner receiving the highest number of votes shall be elected for a term of four years and the three candidates receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as the terms of the members expire, their successors shall be elected for a term of four years.

The municipal elections shall be held by the Wayne County Board of Elections. The election shall be nonpartisan and decided by simple plurality as provided in G.S. 163-279 and shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1977.

S. B. 27 **CHAPTER 21**

AN ACT TO AMEND G.S. 7A-66 RELATING TO THE REMOVAL OF DISTRICT ATTORNEYS SO AS TO CLARIFY THE AUTHORITY OF A SUPERIOR COURT JUDGE TO DISMISS A FRIVOLOUS REMOVAL PETITION WITHOUT CONDUCTING A HEARING AND TO EXPAND THE TIME IN WHICH THE COURT HAS TO ACT FROM 15 TO 30 DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-66 as the same appears in the 1975 Cumulative Supplement to the General Statutes is hereby amended by adding a new sentence at the end of the second paragraph to read as follows:

"If the superior court judge finds that the charges if true do not constitute grounds for suspension or finds that no probable cause exists for believing that the charges are true, he shall dismiss the proceeding."

Sec. 2. G.S. 7A-66 as the same appears in the 1975 Cumulative Supplement to the General Statutes is hereby further amended by deleting in line 18 and line 20 the figure "15" and inserting in lieu thereof the figure "30".

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1977.

H. B. 41 CHAPTER 22

AN ACT TO AMEND CHAPTER 126, SESSION LAWS OF 1963, RELATING TO ELECTIONS FOR THE HAYWOOD COUNTY SCHOOL SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 126, Session Laws of 1963, is hereby amended by rewriting the last two sentences thereof beginning with the words "All candidates, etc." to read as follows:

"All candidates for membership of the Consolidated School System for the various districts shall file a notice of such candidacy no earlier than the first Monday in July, and no later than 12:00 noon on the eighth Friday preceding the general election and each candidate shall pay a filing fee of ten dollars ($10.00) and shall certify in writing the election district for which he is filing and that he is a bona fide resident and qualified voter thereof. The election of members for the Consolidated School System shall be held, conducted and supervised by the Haywood County Board of Elections and, except as otherwise provided herein, such election shall be held in accordance with the laws and regulations for the election of county officers. Absentee ballots shall be permitted in the election."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1977.

H. B. 150 CHAPTER 23

AN ACT TO TRANSFER THE ENERGY DIVISION AND THE ENERGY POLICY COUNCIL FROM THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

Section 1. The following provisions of Article 1 of Chapter 113B, as the same appears in the 1975 Supplement to 1975 Replacement Volume 3A of the General Statutes, are rewritten as follows:

(1) G.S. 113B-2(a) is rewritten to read as follows:

"(a) There is hereby created a council to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of Commerce."

(2) G.S. 113B-3(a)(4) is rewritten to read as follows:

"(4) The Chairman of the North Carolina Utilities Commission, the Secretary of the Department of Natural and Economic Resources, the Commissioner of Agriculture and the Secretary of Commerce."

(3) G.S. 113B-11(e) is rewritten to read as follows:

"(e) The Energy Division of the Department of Commerce shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized

to make its staff available to the council to assist in the development of a State Energy Policy."

(4) G.S. 113B-21(a), as the same appears in the 1975 Supplement to 1975 Replacement Volume 3A of the General Statutes, is rewritten to read as follows:

"(a) There is hereby created a Legislative Committee on Energy Crisis Management to consist of the Speaker, as chairman, the Speaker pro tempore of the House of Representatives and the President pro tempore and the assistant majority leader of the Senate. The Lieutenant Governor shall serve as a nonvoting ex officio member provided, however, that he shall vote to break a tie."

(5) G.S. 113B-11(c) is amended by deleting at lines 4-5 thereof the words "Military and Veterans Affairs" and by inserting in lieu thereof the word "Commerce".

Sec. 2. G.S. 113B-2(b), as the same appears in the 1975 Supplement to 1975 Replacement Volume 3A of the General Statutes, is hereby rewritten to read as follows: "Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of Commerce."

Sec. 3. Part 3 of Article 5 of Chapter 143B, as the same appears in the 1975 Supplement to Replacement Volume 3C of the General Statutes, is hereby repealed.

Sec. 4. Article 15 of Chapter 143A is hereby amended by adding two sections to read as follows:

"§ 143A-180.1. *Energy Division.*—There is hereby created in the Department of Commerce a division to be known as the Energy Division.

"§ 143A-180.2. *Organization.*—The division shall be organized and shall have such powers, duties and functions as prescribed by the Secretary of Commerce."

Sec. 5. G.S. 113B-3(a), as the same appears in the 1975 Supplement to 1975 Replacement Volume 3A of the General Statutes, is hereby amended by deleting the number "14" at line 1 thereof and by inserting in lieu thereof the number "15".

Sec. 6. All records, personnel, property, and unexpended balances of appropriations of the Energy Division of the Department of Military and Veterans Affairs are hereby transferred to the Energy Division of the Department of Commerce.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1977.

H. B. 161 CHAPTER 24

AN ACT TO AMEND SECTION 135-33 OF THE GENERAL STATUTES RELATING TO MEDICAL AND DISABILITY BENEFITS FOR TEACHERS AND STATE EMPLOYEES AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON RETIREMENT SYSTEMS MATTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-33, as the same appears in the 1975 Cumulative Supplement to the General Statutes, is hereby amended in line 11 by inserting after the word "retirement" and before the word "may" the words ", his

surviving spouse, and the surviving spouse of a teacher or State employee who is receiving a survivor's alternate benefit under G.S. 135-5(m),"; and further amended by inserting in line 15 after the word "dependents" and before the word "agrees" the words "or surviving spouse"; and further amended by inserting in line 19 after the word "spouses" and before the word "who" the words ", and the surviving spouses of teachers and State employees who are receiving a survivor's alternate benefit under G.S. 135-5(m),".

Sec. 2. This act shall become effective on the first day of the third month following ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1977.

S. B. 29 CHAPTER 25

AN ACT TO AMEND G.S. 15A-1002 RELATING TO THE DETERMINATION OF A CRIMINAL DEFENDANT'S INCAPACITY TO PROCEED SO AS TO PROTECT THE CONFIDENTIALITY OF THE MEDICAL REPORT AND ASSURE THE PHYSICIAN-PATIENT PRIVILEGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1002 is hereby amended by adding at the end thereof subsection (d), to read as follows:

"(d) Any report made to the court pursuant to this section shall be forwarded to the clerk of superior court in a sealed envelope addressed to the attention of a presiding judge, with a covering statement to the clerk of the fact of the examination of the defendant and any conclusion as to whether the defendant has or lacks capacity to proceed. A copy of the full report shall be forwarded to defense counsel, or to the defendant if he is not represented by counsel. A copy of the covering statement shall be forwarded to the district attorney. Until such report becomes a public record, the full report to the court shall be kept under such conditions as are directed by the court, and its contents shall not be revealed except as directed by the court. Any report made to the court pursuant to this section shall not be a public record unless introduced into evidence."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of February, 1977.

H. B. 173 CHAPTER 26

AN ACT TO AMEND CHAPTER 96 OF THE GENERAL STATUTES KNOWN AS THE EMPLOYMENT SECURITY LAW OFFSETTING RETIREE'S BENEFITS AND DISQUALIFYING CLAIMANTS WHO VOLUNTARILY LEAVE THEIR JOB, ARE DISCHARGED FOR MISCONDUCT OR WHO REFUSE TO ACCEPT SUITABLE WORK UNTIL THEY RETURN TO EMPLOYMENT AND REQUALIFY FOR BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-14 as it appears in Volume 2C of the General Statutes of North Carolina, is amended as follows:

(1) by deleting the language now contained in subdivision (1) and substituting the following:

"For the duration of his unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the commission that such individual is, at the time such claim is filed, unemployed because he left work voluntarily without good cause attributable to the employer."

(2) by deleting the language now contained in subdivision (2) and substituting the following:

"For the duration of his unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the commission that such individual is, at the time such claim is filed, unemployed because he was discharged for misconduct connected with his work."

(3) by deleting the wording in paragraph 1 of subdivision (3) and substituting the following:

"For the duration of his unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the commission that such individual has failed without good cause (i) to apply for available suitable work when so directed by the employment office of the commission; or (ii) to accept suitable work when offered him; or (iii) to return to his customary self-employment (if any) when so directed by the commission. Provided further, an otherwise eligible individual who is attending a vocational school or training program which has been approved by the commission for such individual shall not be denied benefits because he refuses to apply for or accept suitable work during such period of training."

(4) by deleting the language now contained in subdivision (4) and substituting the following:

"For the duration of his unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the commission that:

a. such individual has failed without good cause to attend a vocational school or training program when so directed by the commission;

b. such individual has discontinued his training course without good cause; or

c. if the individual is separated from his training course or vocational school due to misconduct."

(5) by adding the following new subdivisions (9) and (10) to read as follows:

"(9) The amount of compensation payable to an individual for any week which begins after July 2, 1977, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount rounded to the nearest dollar equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week.

(10) Any employee disqualified for the duration of his unemployment due to the provisions of (1), (2), (3) or (4) above may have that permanent disqualification removed if he meets the following three conditions:

a. returns to work for at least five weeks and is paid cumulative wages of at least 10 times his weekly benefit amount;

b. subsequently becomes unemployed through no fault of his own; and

c. meets the availability requirements of the law.

Provided for good cause shown the commission in its discretion may as to any permanent disqualification provided in this Chapter reduce the disqualification period to a time certain but not less than five weeks. The maximum amount of benefits due any individual whose permanent disqualification is changed to a time certain shall be reduced by an amount determined by multiplying the number of weeks of disqualification by the weekly benefit amount."

Sec. 2. This act shall become effective July 3, 1977.

In the General Assembly read three times and ratified, this the 24th day of February, 1977.

H. B. 11 CHAPTER 27

AN ACT TO PREVENT THE ANNEXATION OF TERRITORY WITHIN BRUNSWICK COUNTY UNDER THE PROCEDURES OF PART 2 OF ARTICLE 4A OF CHAPTER 160A.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-44 as the same appears in the 1975 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended on lines 8 and 9 by deleting the words "by any city with a population according to the most recent federal census of less than 2,000".

Sec. 2. This act shall become effective upon ratification, but it shall not affect annexations presently in progress.

In the General Assembly read three times and ratified, this the 24th day of February, 1977.

S. B. 30 CHAPTER 28

AN ACT TO AMEND THE CHARTER OF RALEIGH-DURHAM AIRPORT AUTHORITY TO RAISE THE RATE OF COMPENSATION OF MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of the Charter of Raleigh-Durham Airport Authority is hereby amended by rewriting the second sentence of the second paragraph, as the same appears in Section 1 of Chapter 1096 of the Session Laws of 1955 to read as follows: "Members of said board who are not full-time officials or full-time employees of either said municipality or county shall be paid a per diem of thirty-five dollars ($35.00) for each day served in attending the meeting of said board. The members of the Airport Authority shall be reimbursed for actual necessary expenses incurred in attending meetings, including actual traveling expenses or an allowance of a sum for each mile traveled where such member uses his personally owned automobile equalled to the amount of the mileage sum paid generally to State of North Carolina employees who are reimbursed on a similar basis from time to time as provided by the General Statutes of North Carolina."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 177 CHAPTER 29

AN ACT TO PROVIDE THAT NO BOND SHALL BE REQUIRED OF THE PERSONAL REPRESENTATIVE IF ALL OF THE HEIRS AGREE TO WAIVE BOND OR IF THE PERSONAL REPRESENTATIVE IS THE SOLE HEIR OR DEVISEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-8-1(b) is hereby amended by adding two new subdivisions thereof to read as follows:

"(6) a personal representative who resides in the State of North Carolina when all of the heirs of the decedent are over 18 years of age and file with the clerk of superior court a written waiver instrument agreeing to relieve the personal representative from the necessity of giving bond; or

(7) a personal representative when he is the sole heir and or devisee of the decedent."

Sec. 2. This act shall apply to the estates of all decedents dying on or after October 1, 1975.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 34 CHAPTER 30

AN ACT TO CORRECT AN ERRONEOUS CITATION TO THE PRINCIPAL AND INCOME ACT OF 1973.

The General Assembly of North Carolina enacts:

Section 1. G.S. 32-27(29), as the same appears in the 1976 Replacement of Volume 2A of the General Statutes is hereby amended on line 2 by deleting the words "Uniform Principal and Income Act" and inserting in lieu thereof the words "Principal and Income Act of 1973".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

S. B. 6 CHAPTER 31

AN ACT TO AMEND CHAPTER 4 OF THE 1971 SESSION LAWS WHICH REQUIRES THAT PHYSICIANS AND HOSPITALS MUST REPORT CERTAIN WOUNDS, INJURIES AND ILLNESSES SO THAT IT WILL APPLY TO FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 4 of the 1971 Session Laws, as amended by Chapter 594 of the 1971 Session Laws, is hereby rewritten to read as follows:

"Sec. 2. This act shall apply only to Alamance, Forsyth, Craven, Iredell, Mecklenburg, Buncombe, Polk, Rockingham, Stanly, Montgomery, Onslow, Wake and New Hanover Counties."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 209 CHAPTER 32

AN ACT TO AMEND CHAPTER 546 OF THE SESSION LAWS OF 1963, TO DETERMINE THE DISTRIBUTION OF CERTAIN INCOME FROM THE BEVERAGE CONTROL STORES OF THE TOWN OF GRANITE FALLS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 546 of the Session Laws of 1963 as amended by Chapter 1054 of the Session Laws of 1973 is amended by striking Subsections "(c)" and "(d)" of Section 5 thereof and substituting in lieu thereof the following:

"(c) Fifty percent (50%) to be paid into the General Fund of the Town of Granite Falls.

(d) Thirty percent (30%) to be paid into the General Fund of the Town of Granite Falls which may at the discretion of the governing body of the Town of Granite Falls be expended for the use and benefit of the schools located in Granite Falls, Rhodhiss and Dudley Shoals."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 193 CHAPTER 33

AN ACT TO AMEND CHAPTER 195 OF THE 1967 SESSION LAWS AS WAS FURTHER AMENDED BY CHAPTER 936 OF THE 1973 SESSION LAWS TO INCREASE THE NET PROFITS FROM ABC REVENUE TO GO TOWARD LAW ENFORCEMENT IN CONCORD.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 195 of the 1967 Session Laws as amended by Chapter 936 of the 1973 Session Laws is hereby rewritten to read as follows:

"Sec. 7. Out of the net profit remaining after the payment of all costs and operating expenses, and after retaining a sufficient and proper working capital, the Board of Aldermen of the City of Concord shall distribute said net profit as follows: the first fifteen percent (15%) for law enforcement and the balance as follows: twenty-five percent (25%) to Cabarrus County, and seventy-five percent (75%) to the City of Concord."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 172 **CHAPTER 34**

AN ACT TO AMEND CHAPTER 92, PRIVATE LAWS OF 1919, RELATING TO THE TERM AND APPOINTMENT OF MEMBERS OF THE BOARD OF TRUSTEES OF THE KINSTON GRADE SCHOOL DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 92, Private Laws of 1919, is hereby amended by rewriting the first paragraph of Section 3 thereof to read as follows:

"Sec. 3. There is hereby created the Board of Trustees of the Kinston Grade School District, composed of seven members who shall be appointed by the Board of Aldermen of the City of Kinston from any part of the district. The term of office shall be four years, staggered, as hereinafter provided. The term of each member shall begin on January 1 next after his appointment. The board of aldermen shall appoint successors to the present members of the board of trustees at any regular meeting of the aldermen held before November of the year in which a successor is to be appointed. Upon the expiration of the term of the present member of the board of trustees whose term expires December 31, 1977, his successor shall be appointed for a term of four years. Hereafter, as the term of a member expires, his successor shall serve for a term of four years. No person appointed under this act shall serve more than two consecutive terms whether his appointment was for a regular or interim term. Any vacancy occurring in the board of trustees for any reason shall be filled for the unexpired term by the Board of Aldermen of the City of Kinston. A vacancy shall be filled within 60 days after its occurrence."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 179 **CHAPTER 35**

AN ACT AMENDING CHAPTER 1073 OF THE SESSION LAWS OF 1959, RELATING TO THE ISSUANCE OF PISTOL PERMITS, SO AS TO MAKE THE SAME APPLICABLE TO AVERY AND CHEROKEE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 1073 of the Session Laws of 1959 is amended by striking the words "Avery", "Bladen" and "Cherokee" from line 2 thereof.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 143 CHAPTER 36

AN ACT TO ALLOW THE CONTINUED EMPLOYMENT OF PERSONS CLOSELY RELATED TO A SHERIFF OR REGISTER OF DEEDS WITHOUT APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS WHEN THE EMPLOYEE WAS NOT RELATED TO THE APPOINTING OFFICER AT THE TIME OF INITIAL EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-103 is amended by adding a new paragraph at the end thereof as follows:

"Notwithstanding the foregoing provisions of this section, approval of the board of commissioners is not required for the reappointment or continued employment of a near relative of a sheriff or register of deeds who was not related to the appointing officer at the time of initial appointment."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 121 CHAPTER 37

AN ACT TO AMEND CHAPTER 391, SESSION LAWS OF 1963 TO PROVIDE THAT MEMBERS OF THE NEW HANOVER COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE IN DECEMBER NEXT AFTER THEIR ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 391, Session Laws of 1963, is hereby amended by deleting from Section 1 the word "April" and inserting in lieu thereof the word "December".

Sec. 2. The terms of those members now serving on the New Hanover County Board of Education are hereby extended or decreased, as the case may be, in order for those members hereafter elected to begin their term of office on the first Monday in December next after their election.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1977.

H. B. 162 CHAPTER 38

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILSON.

The General Assembly of North Carolina enacts:

Section 1. Section 12.2 of Article XII of the revised and consolidated Charter of the City of Wilson, as enacted by 1969 Session Laws Chapter 136, is hereby rewritten to read as follows:

"Section 12.2. Street improvements; when petition unnecessary. The City Council may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections against the abutting properties at an equal rate per front foot, without the necessity of a petition, upon the finding by the council as a fact:

(a) that such street or part hereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(b) that it is in the public interest to connect two streets, or portions of a street already improved, or

(c) that it is in the public interest to widen a street, or part thereof, which is already improved; provided that assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the city's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1977.

H. B. 168 CHAPTER 39

AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF ONSLOW COUNTY TO FIX THE COMPENSATION OF THE MEMBERS AND THE CHAIRMAN OF THE ONSLOW COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 422 of the 1973 Session Laws is repealed.

Sec. 2. The Board of County Commissioners of Onslow County is hereby authorized to fix the compensation of the chairman of the Onslow County Board of Education in an amount not less than one hundred fifty dollars ($150.00) per month and to fix the compensation of the members of the Onslow County Board of Education in an amount not less than one hundred fifteen dollars ($115.00) per month.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1977.

H. B. 203 CHAPTER 40

AN ACT TO VALIDATE CORPORATE DEEDS AND OTHER DOCUMENTS ACKNOWLEDGED AND RECORDED PRIOR TO JANUARY 1, 1977.

The General Assembly of North Carolina enacts:

Section 1. In all cases where a deed, deed of trust or other document executed by a corporation is permitted or required by law to be recorded and said deed, deed of trust or document was properly executed, acknowledged and recorded before January 1, 1977, except the acknowledgment of the officer or officers of the corporation was taken in their individual capacity rather than in their capacity as officers of said corporation, said deed, deed of trust or other document shall be construed to be a deed, deed of trust or other document of the same force and effect as if said acknowledgment was in every way proper.

Sec. 2. This act shall not apply to pending litigation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1977.

S. B. 92 CHAPTER 41

AN ACT TO AMEND THE CHARTER OF THE CITY OF LOCUST.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 246, Session Laws of 1973, is amended by rewriting Section 2.1 of Article II of the charter to read as follows:

"Sec. 2.1. *Corporate Boundaries.* The Corporate Boundaries of the City of Locust, until changed in accordance with the law, are as follows: Beginning at a concrete monument in the center of Rock Hole Creek in the corporate city limit line of Stanfield, having coordinates of X = 1,572,263.79 Y = 545,988.53 based on the N. C. Geodetic Survey Grid System, also located just below an old ford across creek; thence South 83-50-27 West 3472.65 feet to a concrete monument on line located on the southeast side of Renne Ford Road; thence South 83-50-27 West 40.23 feet to a railroad spike in the center line of Renne Ford Road, a corner, also the southern corner of Joel Huneycutt's property; thence with Joel Huneycutt's lines North 63-18-15 West 30.63 feet to a concrete monument on line and on the northwest side of Renne Ford Road; thence North 63-18-15 West 569.37 feet along Joel Huneycutt's southern property line to a concrete monument, a corner in Joel Huneycutt's line; thence North 17-59-32 West 4913.17 feet to a concrete monument on line located on the southeastern side of Lilesville Road; thence North 17-59-32 West 96.35 feet to a concrete monument, a corner, located on the south side of N. C. Hwy. #24-27 whose coordinates are X = 1,566,688.61 Y = 550,645.00; thence North 40-24-53 East 101.30 feet to a concrete monument on line and located on the north side of N. C. Hwy. #24-27; thence North 40-24-53 East 2181.51 feet to a concrete monument on line and located on the south side of Scout Road, a corner of Lewis Kluttz property; thence North 40-24-53 East 50.18 feet to a concrete monument, a corner, and being located on the northeast side of Scout Road; thence North 39-17-42 East 676.17 feet to a concrete monument on line and being located on the west side of Meadow Creek Road; thence North 39-17-42 East 89.35 feet to a concrete monument, a corner and being on the east side of Meadow Creek Road and a corner of the Charlie Hartsell property; thence with the Charlie Hartsell property North 87-33-14 East 499.98 feet to a concrete monument, a corner and also a corner of the Charlie Hartsell property; thence North 39-13-45 East 5159.71 feet to a concrete monument, a corner and being the northwestern corner of Western Hills Development; thence South 72-11-54 East 1902.89 feet to a concrete monument, a corner located 300 feet west of the centerline of N. C. Hwy. #200 and 500 feet North of Danita Drive; thence continuing 300 feet from centerline of N. C. Hwy. #200 around a curve defined by a chord of North 5-12-57 East 303.69 feet to a point; thence continuing 300 feet from centerline of N. C. Hwy. #200 North 7-10-10 East 2197.93 feet to a point; thence continuing 300 feet from centerline of N. C. Hwy. #200 a curve to the left defined by (Radius - 1004.71 feet, Delta = 17-51-10, and Length = 313.06 feet) to a point; thence North 10-41-00 West 1294.06 feet to a concrete monument located 300 feet west of the centerline of N. C. Hwy. #200 and 200 feet south of Edgewood Drive; thence South 78-48-39 West 668.76 feet to a concrete monument, a corner and also a corner of Dwain Tucker property;

thence North 71-06-11 West 886.58 feet to a concrete monument, a corner and located on the southeast side of Meadow Creek Road; thence North 66-29-50 West 60.00 feet to a concrete monument on line and being on the northwest side of Meadow Creek Road, also a corner of Meadow Creek Church Cemetery; thence N. 66-29-50 West 185.00 feet to a concrete monument, a corner, said corner being located 215 feet northwest of the centerline of Meadow Creek Road; thence North 23-30-10 East 110.80 feet to a point, a corner located 215 feet northwest of Meadow Creek Road; thence continuing 215 feet from Meadow Creek Road a curve to the right defined by (Radius = 1503.38 feet, Delta = 15-54-25, and Length 417.38 feet); thence continuing 215 feet from centerline of Meadow Creek Road North 39-24-55 East 120.67 feet to a point, a corner; thence continuing 215 feet from centerline of Meadow Creek Road a curve to the right defined by (Radius = 1990.49 feet, Delta = 11-34-40, and Length = 402.22 feet) to a point, a corner; thence continuing 215 feet from centerline North 50-59-14 East 208.37 feet to a point, a corner; thence continuing 215 feet from centerline of Meadow Creek Road North 50-21-49 East 869.42 feet to a concrete monument, a corner located on the west side of N. C. Hwy. #200 and being 215 feet north of the centerline of Meadow Creek Road; thence North 58-37-05 East 60.94 feet to a concrete monument on line and being on the east side of N. C. Hwy. #200; thence North 58-37-05 East 289.44 feet to a concrete monument, a corner and being located 215 feet from the centerline of Bethel Church Road and 315 feet from the centerline of N. C. Hwy. #200; thence South 21-19-55 East 195.87 feet to a concrete monument on line and being located on the north side of Bethel Church Road and 315 feet east of N. C. Hwy. #200; thence South 21-19-55 East 60.94 feet to a concrete monument on line and being located on the south side of Bethel Church Road and 315 feet north of N. C. Hwy. #200; thence South 21-19-55 East 557.22 to a point, a corner and being 315 feet of the centerline of N. C. Hwy. #200; thence continuing 315 feet from centerline of said highway around a curve to the right defined by (Radius = 4217.01 feet, Delta = 10-38-55, and Length = 783.75 feet); thence continuing 315 feet from the centerline of said highway South 10-41-00 East 1667.62 feet to a point, a corner; thence continuing 315 feet from said road around a curve to the right defined by (Radius = 1620.17 feet, Delta = 17-51-10, and Length = 504.83 feet) to a point, a corner; thence South 7-10-10 West 9.32 feet to a concrete monument, a corner and being 315 feet of centerline of N. C. Hwy. #200, also being near the north line of Thurman Snyder property; thence South 87-37-40 East 100.35 feet to a concrete monument, a corner and being 415 feet to the centerline of N. C. Hwy. #200; thence S. 7-10-10 West 507.90 feet to a concrete monument, a corner and being 415 feet from the centerline of N. C. Hwy. #200, also being the southeast corner of Glenn Almond Development; thence with the South line of said development South 85-28-25 West 102.02 feet to a concrete monument, a corner and being 315 feet from the centerline of N. C. Hwy. #200; thence continuing 315 feet from centerline of N. C. Hwy. #200 South 7-10-10 West 1668.40 feet to a point; thence continuing 315 feet from center of said road around a curve to the left defined by (Radius = 2373.96 feet, Delta = 11-28-05, and Length = 537.30 feet) to a point, a corner; thence continuing 315 feet from the centerline of said road South 3-52-44 East 293.42 feet to a concrete monument, a corner and being located 315 feet east of the intersection of N. C. Hwy. #200 and Danita Drive; thence South 74-03-55 East 2433.08 feet to a concrete monument on line located on the west side of Willow

Drive; thence South 74-03-55 East 58.88 feet to a concrete monument, a corner and being located on the east side of Willow Drive; thence South 76-13-41 East 1963.98 feet to a concrete monument, a corner; thence South 3-34-24 West 1169.31 feet to a concrete monument, a corner; thence South 55-40-15 East 194.91 feet to a concrete monument, a corner; thence South 1-38-33 West 472.69 feet to a concrete monument on line and being located on the north side of N. C. Hwy. #24-27; thence South 1-38-33 West 30.15 feet to a railroad spike, a corner located in the centerline of N. C. Hwy. #24-27; thence with centerline of said highway South 74-39-00 East 785.31 feet to a railroad spike in the centerline of said road; thence South 78-28-35 East 912.61 feet to a point in centerline of said road, a corner; thence around a curve to the left defined by (Radius = 1112.46, Delta = 40-56-45, and Length = 795.01 feet) to a point in the centerline of said road, a corner; thence North 60-34-40 East 1232.39 feet to a railroad spike in the centerline of N. C. Hwy. #24-27, a corner; thence South 5-41-15 West 36.93 feet to a concrete monument located on the south side of N. C. Hwy. #24-27 and being in the east line of Roy Huneycutt property; thence with the east line of Roy Huneycutt South 5-41-15 West 563.07 feet to a concrete monument with coordinates X = 1,582,730.01 Y = 552,707.79; thence South 75-13-35 West 1910.59 feet to a concrete monument, a corner; thence North 75-04-57 West 2029.37 feet to a concrete monument, a corner located 315 feet south of centerline of N. C. Hwy. #24-27; thence South 24-54;12 West 1538.05 feet to a concrete monument near the end of South Beverly Drive and being a corner of Larry Barbee property; thence with the Larry Barbee property line South 49-50-00 West 428.22 feet to a concrete monument, a corner and also Larry Barbee's corner; thence South 44-15-31 East 374.32 feet to a concrete monument, a corner of Larry Barbee property; thence with Larry Barbee property line South 45-14-37 West 1138.65 feet to a concrete monument, a corner, and also being a corner of Larry Barbee property, said concrete monument is located on the northeast side of Elm Street; thence South 86-29-18 West 1475.24 feet to a concrete monument on line and located on the east side of Springview Drive; thence South 86-29-18 West 61.39 feet to a concrete monument on line on the west side of Springview Drive; thence South 86-29-18 West 355.76 feet to a concrete monument, a corner and also a corner of the Stanfield City Limits (all calls from this point to the beginning point join the corporate city limits of Stanfield); thence North 87-14-56 West 691.32 feet to a railroad spike in the centerline of N. C. Hwy. #200; thence with said highway South 1-41-45 East 576.07 feet to a railroad spike in the center line of N. C. Hwy. #200; thence South 88-45-15 West 30.00 feet to a concrete monument on line; thence South 88-45-15 West 188.77 feet to a concrete monument, a corner, coordinates for which are X = 1,574,613.56 Y = 549,349.52: thence North 1-41-45 West 150.00 feet to a concrete monument, a corner; thence North 88-45-15 East 50.00 feet to a concrete monument, a corner; thence North 1-41-55 West 225.00 feet to a concrete monument, a corner; thence South 88-45-15 West 50.00 feet to a concrete monument, a corner; thence North 1-41-45 West 200.00 feet to a concrete monument, a corner; thence North 87-11-04 West 1119.66 feet to a concrete monument, a corner; thence South 7-06-13 East 2102.08 feet to a stone, an old corner marker for city of Stanfield and being on the east bank of Rock Hole Creek; thence South 48-35-15 West 47.00 feet to the centerline of Rock Hole Creek; thence with the centerline of

Rock Hole Creek the following bearings and distances, South 25-20-00 West 262.00 feet; South 25-30-00 West 190.00 feet; South 88-15-00 West 160.00 feet; South 20-10-00 West 55.00 feet; South 14-40-00 West 92.00 feet; South 59-55-00 West 60.00 feet; South 29-15-00 West 78.00 feet; South 47-00-00 West 82.00 feet; South 33-10-00 East 71.00 feet; South 10-15-00 East 52.00 feet; South 55-40-00 East 50.00 feet; South 42-10-00 West 65.00 feet; North 85-25-00 West 150.00 feet; South 34-10-00 West 292.00 feet; South 24-15-00 West 50.00 feet; South 35-39-00 West 163.00 feet; South 55-12-00 West 42.00 feet; South 41-20-00 West 140.00 feet; South 45-25-00 West 90.00 feet; South 37-45-00 West 300.00 feet; South 12-15-00 West 100.00 feet; South 67-28-02 West 121.90 feet; to the point and place of beginning containing 2,045.82 acres more or less."

Sec. 2. Section 4 of Chapter 246 Session Laws of 1973 is amended by deleting the first sentence of Section 3.2 of Article III of the charter and inserting in lieu thereof the following:

"The Mayor shall be a resident and qualified voter of the City of Locust and shall be elected by the qualified voters of the City of Locust, and he shall hold office for a term of two (2) years."

Sec. 3. Section 4 of Chapter 246 of the Session Laws of 1973 is amended by rewriting Section 3.3 of Article III of the charter as follows:

"Sec. 3.3. *Composition of City Council.* Beginning with the election to be held on November 8, 1977, the City Council shall consist of seven (7) members to be elected by and from the qualified voters of the city voting at large in the manner provided by Article IV."

Sec. 4. Section 4.1 of Article IV of the charter of the City of Locust, Section 4 of Chapter 246 Session Laws of 1973 is rewritten to read as follows:

"Sec. 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year which began in 1973. In the regular election in 1977 there shall be elected three (3) councilmen. The three (3) candidates receiving the highest number of votes shall be elected for terms of four (4) years. In the regular election of 1979, there shall be elected four (4) councilmen, and the four (4) candidates receiving the highest number of votes shall be elected for four (4) years. Thereafter as the terms of members expire, their successors shall be elected for terms of four (4) years."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1977.

H. B. 181 CHAPTER 42

AN ACT REPEALING ARTICLE 32 OF CHAPTER 106 OF THE GENERAL STATUTES, RELATING TO LINSEED OIL.

The General Assembly of North Carolina enacts:

Section 1. Article 32 of Chapter 106 of the General Statutes, relating to linseed oil is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the lst day of March, 1977.

H. B. 146

CHAPTER 43

AN ACT TO AMEND CHAPTER 342 OF THE 1975 SESSION LAWS, "AN ACT TO PREVENT HUNTING DEER WITH DOGS IN JOHNSTON COUNTY" SO AS TO MAKE IT APPLICABLE TO WAYNE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 342 of the 1975 Session Laws is hereby amended as follows:

(1) By striking from Section 1 the last word of the sentence, "County", and substituting in lieu thereof the words "and Wayne Counties".

(2) By rewriting Section 3 to read as follows:

"Sec. 3. This act shall apply to Johnston and Wayne Counties."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1977.

S. B. 106

CHAPTER 44

AN ACT TO MODIFY THE METHOD OF SELECTION OF MEMBERS OF THE GREENVILLE CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The term of the present members of the Greenville City Board of Education will cease after the election, appointment and qualification of their successors as hereinafter provided.

Sec. 2. The Greenville City Board of Education shall be composed of nine members. Six shall be elected and three shall be appointed as hereinafter provided.

Sec. 3. The elected members of the Greenville City Board of Education shall be elected on a nonpartisan basis and all elected and appointed members shall serve for a term of four years except for the initial terms which shall be staggered as herein provided.

Sec. 4. The election for members of the board shall be held in 1978, and biennially thereafter, at the same time the primary elections in North Carolina, as now existing or as changed by the North Carolina General Assembly, are held, and shall be conducted according to the provisions of Chapter 163 of the General Statutes then governing nonpartisan municipal and special district elections. Members of the board so elected shall take office at the second regular meeting of the board of education following the election. Those members appointed by the city council shall take office on the same date as elected members.

Sec. 5. The elected members of the Greenville City Board of Education shall be elected by those voters residing within the boundaries of the Greenville School District. The appointed members of the Greenville City Board of Education shall be appointed by the City Council of the City of Greenville from qualified voters residing within the boundaries of the Greenville School District. Once appointed or elected, each member shall hold office until his or her successor has been duly elected or appointed.

Sec. 6. At the first election hereunder during the year 1978, the three candidates receiving the highest number of votes shall be elected for a term of four years, and the three candidates receiving the next highest number of votes

shall be elected for a term of two years. Thereafter, all elected members shall be elected for a term of four years.

Sec. 7. After the election for elected members in 1978 and 10 days before the members are to take office, the city council shall appoint two members for a term of two years and one member shall be appointed for a term of four years. Thereafter, all appointed members shall be appointed for a term of four years, and their appointment shall be made by the city council at least 10 days prior to the time for taking office, and after the election for elected members.

Sec. 8. All vacancies in the membership of the Greenville City Board of Education created by death, resignation, or other cause, shall be filled by appointment by the City Council of the City of Greenville. If the vacancy is created by an elected member, the appointee will serve until the next election for members of the school board, held more than 30 days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of the office, or full term, as the case may be. If the vacancy is created by an appointed member, such appointment will be for the remaining unexpired term.

Sec. 9. The provisions of Article 5, Chapter 115, of the General Statutes of North Carolina relating to city boards of education shall be applicable to the Greenville City Board of Education except G.S. 115-18 through G.S. 115-20 and G.S. 115-22, G.S. 115-23, G.S. 115-24, or any other provisions in conflict with this act.

Sec. 10. The salaries of board members shall be set by the Pitt Board of County Commissioners at the time of the adoption of the annual county budget.

Sec. 11. This act is applicable only to the Greenville City Board of Education.

Sec. 12. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 13. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1977.

H. B. 147 CHAPTER 45

AN ACT TO AMEND CHAPTER 343 OF THE 1975 SESSION LAWS, RELATING TO HUNTING DEER WITH RIFLES IN JOHNSTON COUNTY, SO AS TO MAKE ITS PROVISIONS APPLICABLE TO WAYNE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 343 of the 1975 Session Laws is amended by adding at the end of Section 1 thereof the words "or Wayne".

Sec. 2. Section 2 of Chapter 343 of the 1975 Session Laws is amended by adding at the end thereof "and Wayne County".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1977.

H. B. 145 **CHAPTER 46**

AN ACT TO AMEND CHAPTER 341 OF THE 1975 SESSION LAWS, WHICH PROHIBITS HUNTING FROM PUBLIC HIGHWAYS IN JOHNSTON COUNTY, SO AS TO MAKE ITS PROVISIONS APPLICABLE TO WAYNE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 341 of the 1975 Session Laws is hereby amended as follows:

(1) By striking from Section 1 the last word of the sentence, "County", and substituting in lieu thereof the words "and Wayne Counties".

(2) By rewriting Section 4 to read as follows:

"Sec. 4. This act shall apply to Johnston and Wayne Counties."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1977.

H. B. 238 **CHAPTER 47**

AN ACT TO AUTHORIZE THE BOARD OF COMMISSIONERS OF RUTHERFORD COUNTY TO ESTABLISH A COUNTY ZOO.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Rutherford County is authorized to establish a county zoo. The board may accept gifts, grants, donations, bequests, or devise of real or personal property for the county zoo, and such may be accepted and held subject to any reasonable terms or conditions that may be imposed by the grantor or trustor.

Sec. 2. This act shall become effective upon ratification..

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

H. B. 214 **CHAPTER 48**

AN ACT TO AUTHORIZE THE CITY OF HAMLET TO LEASE FOR 99 YEARS TO HAMLET LIONS CLUB A CERTAIN LOT OF LAND LYING ON EAST HAMLET AVENUE OR U. S. HIGHWAY NO. 74 EAST, FOR CIVIC PURPOSES AND ACTIVITIES, WITH REVERTER CLAUSE.

The General Assembly of North Carolina enacts:

Section 1. The City of Hamlet is hereby authorized and empowered to lease for 99 years to Hamlet Lions Club a certain lot of land located on East Hamlet Avenue or U. S. Highway No. 74 East, in Marks Creek Township, Richmond County, North Carolina, which lot is described as follows:

All that tract or parcel of land lying and being in the city limits of Hamlet and bounded as follows: on the north by Marks Creek, on the west by the Seaboard Coastline tracks and right-of-way, on the south by N. C. Highway No. 38, and on the east by Hamlet Avenue; and known now or formerly as "The Fairgrounds" and "Old Ball Park", upon which land is located several buildings owned by the Hamlet Lions Club, and being more particularly described as follows:

BEGINNING at a stake at the intersection of the run of Marks Creek and Hamlet Avenue and running thence about 150 feet in a southwesterly direction to a stake in the intersection of Hamlet Avenue and N. C. Highway No. 38; thence in a southerly direction as and with N. C. Highway No. 38 about 1050 feet to a stake in the edge of the Seaboard Coastline right-of-way; thence as and with the SCL right-of-way in a northwesterly direction about 975 feet to a stake in the run of Marks Creek; thence in a northeasterly direction up the run of Marks Creek 1020 feet to the beginning.

Sec. 2. Upon approval by the City Council of the City of Hamlet, the Mayor and the City Clerk of the City of Hamlet are authorized and empowered to execute a lease for 99 years to said Hamlet Lions Club, but such lease shall carry a provision that if said Hamlet Lions Club shall fail to use the property for civic purposes and activities, or for similar use or recreational purposes, then the title to this property shall revert to the City of Hamlet and any lease executed under this act shall carry provisions to this effect.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

H. B. 194 CHAPTER 49

AN ACT TO VALIDATE THE ELECTION OF SCHOOL BOARD MEMBERS IN DUPLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Whereas the primary election as required by Chapter 1046, Session Laws of 1967, by oversight, was not held, but two members of the Duplin County Board of Education were elected in the general election, the General Assembly does hereby ratify, confirm and validate the election in 1976 of Graham A. Phillips, Jr., and Edward L. Boyette to the Duplin County Board of Education.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

H. B. 251 CHAPTER 50

AN ACT TO AMEND G.S. 47-30(k) TO DELETE LENOIR COUNTY SO THAT THE STATE MAPPING REQUIREMENTS WILL APPLY TO LENOIR COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k) is hereby amended by deleting the word "Lenoir".

Sec. 2. It is the intent of this act that the provisions of G.S. 47-30 shall apply to Lenoir County.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

H. B. 243

CHAPTER 51

AN ACT TO ABOLISH THE OFFICE OF CORONER IN PITT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner is hereby abolished in Pitt County.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

H. B. 12

CHAPTER 52

AN ACT TO PERMIT COUNTY FIRE MARSHALS AND CIVIL DEFENSE DIRECTORS TO USE WARNING DEVICES AND RED LIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-125(b) as same appears in the 1975 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by inserting immediately after the word and punctuation "voluntary," and immediately before the word "are" appearing in line 13 the words and punctucation "county fire marshals and civil preparedness coordinators,".

Sec. 2. G.S. 20-130.1 as same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by inserting immediately after the word "county" and immediately before the word "regardless" appearing in line 14 thereof the words and punctuation, "county fire marshal, or civil preparedness coordinator".

Sec. 3. G.S. 20-145 as same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by inserting immediately after the word "emergencies" and immediately before the word "nor" appearing in line 7 thereof, the words and punctuation "nor to vehicles operated by county fire marshals and civil preparedness coordinators when traveling in the performances of their duties,".

Sec. 4. G.S. 20-156(b) as same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby rewritten to read as follows:

"(b) The driver of a vehicle upon the highway shall yield the right-of-way to police and fire department vehicles and public and private ambulances and to rescue squad emergency service vehicles and vehicles operated by county fire marshals and civil preparedness coordinators when the operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. This provision shall not operate to relieve the driver of a police or fire department vehicle or public or private ambulance or rescue squad emergency service vehicle or county fire marshals or civil preparedness coordinators from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle or county fire marshal or civil preparedness coordinator from the consequence of any arbitrary exercise of such right-of-way."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

H. B. 118 **CHAPTER 53**

AN ACT TO AMEND G.S. 55B-2 SO AS TO INCLUDE REGISTERED FORESTERS UNDER THE PROVISIONS OF THE PROFESSIONAL CORPORATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55B-2(6), as the same appears in Volume 2B of the General Statutes, is amended by deleting the period at the end of that subsection and inserting in lieu thereof the following:

"; and Chapter 89B, 'Foresters'."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

S. B. 112 **CHAPTER 54**

AN ACT TO AMEND CHAPTER 936 OF THE 1963 SESSION LAWS CLARIFYING THE DUTIES OF THE MEMBERS OF THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 936 of the 1963 Session Laws is hereby amended by replacing the semicolon after the word "expedient" in line 7 of Section 2 with a comma, and adding the phrase "and to follow the directives of the majority of the board in regards thereto;".

Sec. 2. Chapter 936 of the 1963 Session Laws is hereby amended by deleting the phrase beginning with the words "to appoint," on line 10 of Section 2 and ending with the words "by law;" on line 14, and inserting in lieu thereof the phrase: "to appoint, at the direction of the majority of the board, such subordinate officers, agents and employees for the general administration of county affairs as the board may consider necessary, and to remove, at the direction of the majority of the board, such subordinate officers, agents and employees; except such officers as are required to be elected by popular vote, or whose appointment and removal is otherwise provided by law;"; and is further amended by deleting the last sentence of Section 2 beginning on line 16 with the words "The Chairman".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

S. B. 58 **CHAPTER 55**

AN ACT TO AMEND CHAPTER 687 OF THE SESSION LAWS OF 1975 AND TO LIMIT CERTAIN POWERS OF THE INCORPORATED VILLAGE OF WALNUT CREEK.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 687 of the Session Laws of 1975 is hereby amended by inserting in line 9 a comma in lieu of the period after the words "North Carolina" and by adding the following words: "except that none of those powers shall be exercised beyond the designated corporate limits of the Village of Walnut Creek.", and by deleting therefrom in lines 11 and 12 the

following words: "The corporate boundaries of the Village of Walnut Creek, until changed in accordance with law, are as follows:" and substituting in lieu thereof the following words: "The Village of Walnut Creek shall exercise no powers of annexation provided for in the general law, and, until and unless changed by the General Assembly, its corporate boundaries are, and shall be, as follows:".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1977.

H. B. 158 CHAPTER 56

AN ACT TO AMEND CHAPTER 146 OF THE SESSION LAWS OF 1975 REGARDING THE AUTHORITY OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF MUNICIPALITIES TO USE THE PROCEDURE PROVIDED IN ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES AS SPECIFICALLY AUTHORIZED BY G.S. 136-66.3(c), AND EXTENDING THE AUTHORITY OF THE CITY OF STATESVILLE TO AREAS WITHOUT THE CORPORATE LIMITS OF STATESVILLE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 146 of the Session Laws of 1975 is rewritten to read as follows:

"Sec. 2. This act shall apply only to the City of Statesville and land located within the corporate limits of Statesville or within its planning area as defined in G.S. 160A-360."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1977.

H. B. 197 CHAPTER 57

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF WAXHAW, UNION COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES SHALL BE OPERATED IN THE TOWN OF WAXHAW AND TO PROVIDE FOR THE DISTRIBUTION OF REVENUES RAISED THEREFROM.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Waxhaw shall call a special election to be held on the question of whether Alcoholic Beverage Control Stores may be operated in said town. The governing body may call the special election to be held on such date as the County Board of Elections may determine, but not less than 30 days nor more than 60 days subsequent to the ratification of this act. The Union County Board of Elections shall hold and conduct all elections under this act, and the cost of the special elections shall be paid from the general fund of the town.

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a

special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Waxhaw.

Sec. 3. There shall be submitted to the qualified voters of the Town of Waxhaw at said election the question of whether municipal Alcoholic Beverage Control Stores may be operated in said town, and if a majority of the votes cast in such an election shall be for the operation of such stores, it shall be legal for Alcholic Beverage Control Stores to be set up and operated in the town, but if a majority of the votes cast in such election shall be against Alcoholic Beverage Control Stores, no such stores shall be set up or operated in the Town of Waxhaw under the provisions of this act. In said election, a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Alcoholic Beverage Control Stores", "Against Alcoholic Beverage Control Stores". Those favoring setting up and operating Alcoholic Beverage Control Stores in the town shall mark in the voting square to the left of the words, "For Alcoholic Beverage Control Stores", printed on the ballot and those opposed to Alcoholic Beverage Control Stores shall mark in the voting square to the left of the words "Against Alcoholic Beverage Control Stores", printed on the ballot.

Sec. 4. If the operation of Town Alcoholic Beverage Control Stores is authorized under the provisions of this act, the governing body of the town shall immediately create a Town Board of Alcoholic Beverage Control, to be composed of a chairman and two other members who shall be well known for their good character, ability and business acumen. Said board shall be known and designated as the "Town of Waxhaw Board of Alcoholic Beverage Control". The chairman of said board shall be designated by the governing body of the town and shall serve for his first term a period of three years. The other two members of the Board of Alcoholic Beverage Control shall be designated by the governing body of the town, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the same term shall have expired, successors in office shall serve for a period of three years. Their successors shall be named by the governing body of the town. Any vacancy shall be filled by the governing body of the town for the unexpired term.

Sec. 5. The Town Board of Alcoholic Beverage Control shall have all the powers and duties prescribed for county board of alcoholic control by G.S. 18A-17, except to the extent that the same may be in conflict with the provisions of this act, and shall be subject to the same powers and authority of the State Board of Alcoholic Control as are county boards of alcoholic control by the provisions of G.S. 18A-15. The Town of Waxhaw Board of Alcoholic Control, in the operation of any city alcoholic beverage control stores authorized under the provisions of this act, shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent that the same may be in conflict with the provisions of this act. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Waxhaw Board of Alcoholic Control.

Sec. 6. The Town Board of Alcoholic Beverage Control shall, out of the gross revenue derived from the operation of Alcoholic Beverage Control Stores, pay all salaries, costs and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the Town Board of

Alcoholic Beverage Control. The remaining revenue, as determined by quarterly audit, shall be distributed quarterly by the Town Board of Alcoholic Beverage Control as follows: (a) twenty-five percent (25%) to the general fund of Union County, (b) the remainder to the general fund of the Town of Waxhaw to be used for any and all purposes for which tax and nontax revenues may be expended by the town. Provided, however, that of said monies received, the town shall expend a sum not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics.

Sec. 7. Subsequent elections may be held as authorized in this section. At such election if a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores", the Alcoholic Beverage Control Board shall be closed immediately and no beverages shall be sold at retail or otherwise to citizens of Union County, and within three months from the canvassing of such votes and the declaration of the results thereof, the Alcoholic Beverage Control Board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said board and convert the same into cash and the same be deposited in the general fund of the Town of Waxhaw. Thereafter, all public, local and private laws applicable to the sale of intoxicating beverages within the Town of Waxhaw, in force and effect prior to the authorization to operate Alcoholic Beverage Control Stores, shall be in full force and effect the same as if such election had not been held, and until and unless another election is held under the provisions of the act in which a majority of the votes shall be cast "For Alcoholic Beverage Control Stores". No election shall be called and held in the town under the provisions of this act within three years from the holding of the last election thereunder. The governing body of the Town of Waxhaw may order a subsequent Alcoholic Beverage Control election on its own motion, and shall within 60 days after a petition shall have been presented to the town's governing body, filed and signed by at least twenty percent (20%) of the number of the registered and qualified voters of the Town of Waxhaw that voted in the election for the governing body of said town in the last election, order an election on the question of whether Alcoholic Beverage Control Stores shall be operated in the town.

Sec. 8. This act shall become effective from and after its ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1977.

H. B. 185 CHAPTER 58

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF SNOW HILL AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Snow Hill is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF SNOW HILL.

"Article 1. Incorporation, Corporate Powers and Boundaries.

"Sec. 1.1. *Incorporation.*—The Town of Snow Hill, North Carolina in the County of Greene, and the inhabitants thereof, shall continue to be a municipal

body politic and corporate, under the name and style of the "Town of Snow Hill", hereinafter at times referred to as the "Town".

"Sec. 1.2. *Powers.*—The Town of Snow Hill shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be conferred, either expressly or by implication, upon the Town of Snow Hill specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate limits.*—The corporate limits of the Town of Snow Hill shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

"Sec. 1.4. through 1.10. (Reserved.)

"ARTICLE 2. Mayor and Board of Commissioners.

"Sec. 2.1. *Governing body.*—The Mayor and Board of Commissioners, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Board may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. *Board of commissioners; composition; terms of office.*—The Board of Commissioners shall be composed of five members, each of whom shall be elected for terms of four years in the manner provided by Article 3 of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Election of the mayor; term of office; duties.*—The Mayor shall be elected directly by the voters of the Town in the manner provided by Article 3 of this Charter for a term of four years; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. He shall have the right to vote only if there are an equal number of votes in the affirmative and the negative on any matter before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 2.4. *Mayor pro tempore.*—In accordance with applicable State laws, the Board of Commissioners shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 2.5. *Meetings of the board.*—In accordance with the General Statutes, the Board of Commissioners shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and resolutions.*—The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not

inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all Town ordinances shall be: "Be it ordained by the Board of Commissioners of the Town of Snow Hill."

"Sec. 2.7. *Voting requirements; quorum.*—Official action of the Board of Commissioners shall in every instance be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Board, is present. Vacant seats are to be subtracted from the normal Board membership to determine the actual membership.

"Sec. 2.8. *Qualifications for office; vacancies; compensation.*—The compensation of Board members, the filling of vacancies on the Board, and the qualifications of Board members shall be in accordance with applicable provisions of the General Statutes.

"Sec. 2.8 through 2.15. (Reserved.)

"ARTICLE 3. Elections.

"Sec. 3.1. *Regular municipal elections; conduct and method of election.*—Regular municipal elections shall be held in the Town every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. Members of the Board of Commissioners shall be elected according to the nonpartisan plurality method of elections. Municipal elections shall be conducted by the County Board of Elections.

"Sec. 3.2. *Election of the board of commissioners.*—At the regular municipal elections in 1977 and quadrennially thereafter, there shall be elected a Mayor and three commissioners to fill the seats of those officers whose terms are then expiring. At the regular municipal elections in 1979 and quadrennially thereafter, there shall be elected two commissioners to fill the seats of those commissioners whose terms are then expiring.

"Sec. 3.3 through 3.10. (Reserved.)

"ARTICLE 4. Organization and Administration.

"Sec. 4.1. *Form of government.*—The Town shall operate under the Mayor-Council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *Town attorney.*—The Board of Commissioners shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Board of Commissioners and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Board of Commissioners; and to perform other duties required by law or as the Board of Commissioners may direct.

"Sec. 4.3. *Town clerk.*—The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Sec. 4.4. *Town finance officer.*—The Board of Commissioners shall appoint a Town Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.5. *Town budget officer.*—The Board of Commissioners shall appoint a Town Budget Officer to perform the duties of the budget officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. *Town tax collector.*—The Board of Commissioners shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the General Statutes, the provisions of this Charter and the ordinances of the Town. The Town Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities.

"Sec. 4.7. *Consolidation of functions.*—The Board of Commissioners may consolidate any two or more positions of Town Clerk, Town Tax Collector, Town Budget Officer and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. *Other administrative officers and employees.*—Consistent with applicable State laws, the Board of Commissioners may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"Sec. 4.9 through 4.15. (Reserved.)

"ARTICLE 5. Special Provisions.

"Sec. 5.1. *Street improvements; assessment of costs.*—In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of Sections 5.1 through 5.6 herein.

"Sec. 5.2. *When petition unnecessary.*—The Board of Commissioners may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 5.3. *Street improvement defined.*—For the purposes of this Article, the term "street improvement" shall include grading, regrading, surfacing,

resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 5.4. *Sidewalks; assessment of costs.*—In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 5.5. *Assessment procedure.*—In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 5.6. *Effect of assessments.*—The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 5.7. *Bird sanctuary established.*—The territory within the corporate limits of the Town of Snow Hill is hereby declared to be a bird sanctuary.

It shall be unlawful for any person to kill, trap or otherwise take any birds within the corporate limits of the Town, except English sparrows, great horned owls, Cooper's hawks, sharp-shinned hawks, crows and starlings. Any person violating the provisions of this section shall be guilty of a misdemeanor and subject to the penalties imposed under G.S. 14-4.

"Sec. 5.8. *Ad valorem tax rate limit.*—Notwithstanding the provisions of G.S. 160A-209 (d), the Town of Snow Hill may levy ad valorem taxes for one or more of the purposes enumerated in G.S. 160A-209 (c) up to a combined rate of two dollars ($2.00) on the one hundred dollar ($100.00) appraised value of property subject to taxation.

"Sec. 5.9 through 5.15. (Reserved.)"

Sec. 2. The purpose of this act is to revise the Charter of the Town of Snow Hill and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) any acts concerning the property, affairs, or government of public schools in the Town of Snow Hill;

(b) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 69,	Private Laws of 1811
Chapter 100,	Private Laws of 1818
Chapter 150,	Private Laws of 1828-1829
Chapter 280,	Private Laws of 1855
Chapter 90,	Private Laws of 1870
Chapter 68,	Private Laws of 1895
Chapter 90,	Private Laws of 1901
Chapter 882,	Public Laws of 1907
Chapter 356,	Private Laws of 1907
Chapter 50,	Private Laws, Extra Session, 1908
Chapter 14,	Private Laws of 1909
Chapter 377,	Private Laws of 1909
Chapter 368,	Private Laws of 1909
Chapter 231,	Private Laws of 1911
Chapter 278,	Private Laws of 1913
Chapter 226,	Private Laws of 1913
Chapter 191,	Private Laws of 1917
Chapter 160,	Private Laws of 1919
Chapter 161,	Private Laws of 1919
Chapter 123,	Private Laws of 1919
Chapter 159,	Private Laws of 1923
Chapter 551,	Public-Local Laws of 1935
Chapter 240,	Public-Local Laws of 1941
Chapter 369,	Session Laws of 1945
Chapter 39,	Session Laws of 1947
Chapter 49,	Session Laws of 1947
Chapter 755,	Session Laws of 1957, insofar as this act applies to the Town of Snow Hill
Chapter 207,	Session Laws of 1957
Chapter 888,	Session Laws of 1957
Chapter 508,	Session Laws of 1963
Chapter 390,	Session Laws of 1963
Chapter 347,	Session Laws of 1963
Chapter 508,	Session Laws of 1965
Chapter 748,	Session Laws of 1967

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Snow Hill and all existing rules or regulations of departments or agencies of the Town of Snow Hill, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Snow Hill or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1977.

H. B. 254 CHAPTER 59

AN ACT TO REMOVE 1.899 ACRES OF LAND FROM THE CORPORATE LIMITS OF THE TOWN OF SPENCER TO CHANGE THE COURSE OF A PORTION OF THE EXISTING TOWN BOUNDARY AND DE-ANNEX THE PROPERTY WHICH LIES ON THE WESTERN SIDE OF THE NEW TOWN BOUNDARY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Spencer, as amended, is hereby further amended by changing the present town boundary beginning from a point, a new corner of the Town of Spencer in the center line of Seventeenth Street (Corner No. 47-C.3), said new corner being located 364.67 feet South 23° 40' 10 sec. East from the present corner (Corner No. 47-C.3A) of the town limits of Spencer in the center line of Seventeenth Street extended and running from said new corner, a new boundary line, four lines as follows:

(1) North 56° 24' 27 sec. East 32.58 feet to an iron pipe (Corner No. 47-C.4), (2) North 37° 14' 27 sec. East 156.00 feet to an iron pipe (Corner No. 47-C.5), (3) North 21° 58' 27 sec. East 83 feet to an iron pipe (Corner No. 47-C.6) and (4) North 2° 58' 27 sec. East 249.25 feet to an iron pipe, in the line of the present city limit of the Town of Spencer, a new corner (Corner No. 47-C.7), said new boundary line being surveyed and mapped by Hudson and Almond, Registered Land Surveyors, R.L.S. No. 575.

Sec. 2. The 1.899 acres of land which lies between the old boundary line and the new boundary line described above, said 1.899 acres being situated on

the Western side of the new town boundary, is hereby removed and de-annexed from the corporate limits of the Town of Spencer.

Sec. 3. This act shall apply only to the Town of Spencer.

Sec. 4. This act shall be in effect upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1977.

H. B. 230 **CHAPTER 60**

AN ACT TO CONTINUE A MORATORIUM ON INCORPORATIONS AND ANNEXATIONS IN BUNCOMBE COUNTY.

Whereas, the General Assembly in its 1975 Session, by enactment of Chapter 368, Session Laws, 1975, created the Asheville-Buncombe County Local Government Study Commission to study the local government organizational structure in Buncombe County, and the feasibility and advisability of creation of additional units of local government in the county, among other things; and

Whereas, Chapter 368 of the Session Laws of 1975 suspended until February 1, 1977, the powers of municipalities in Buncombe County to annex territory, and the power of the Municipal Board of Control to incorporate territory in Buncombe County; and

Whereas, The Asheville-Buncombe County Local Government Study Commission has prepared its report; and

Whereas, the matters which were the subject of the study and report are of critical importance to the future of the City of Asheville and Buncombe County, and ample time should be allowed for consideration of the report by local government officials and the public in Asheville and Buncombe County; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The authority of municipalities in Buncombe County to annex territory pursuant to Parts 2 and 3 of Article 4A of Chapter 160A of the General Statutes is hereby suspended until July 1, 1979.

Sec. 2. The authority of the Municipal Board of Control to incorporate areas in Buncombe County pursuant to Article 1A of Chapter 160A of the General Statutes is hereby suspended until January 1, 1979.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1977.

H. B. 156

CHAPTER 61

AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL BOARD OF DURHAM COUNTY TO EXPEND UP TO TWENTY PERCENT OF TOTAL PROFITS FOR LAW ENFORCEMENT.

The General Assembly of North Carolina enacts:

Section 1. The Alcoholic Beverage Control Board of Durham County shall expend a sum not less than five percent (5%), and, in its discretion, may expend up to twenty percent (20%) of its total profits for law enforcement in Durham County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1977.

H. B. 99

CHAPTER 62

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF BOILING SPRING LAKES IN BRUNSWICK COUNTY AND TO REPEAL PRIOR CHARTER ACTS, SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a). The Board of Elections of the City of Boiling Spring Lakes is hereby authorized and directed to call and conduct a special election on May 10, 1977 for the purpose of submitting to the qualified voters of the City of Boiling Spring Lakes the question of whether or not to adopt the revised and consolidated City Charter as set out in this act as the official Charter of the City. In conducting the election required to be held by this act, the Board of Elections of the City of Boiling Spring Lakes shall follow the procedures contained in this act and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections, where the same are not in conflict with this act.

(b). Not later than 30 days prior to the date on which the registration books are required to be closed, the Board of Elections of the City of Boiling Spring Lakes shall cause to be published one or more times in a newspaper having general circulation in the City of Boiling Spring Lakes a notice stating the time, the polling place, and the purpose of this special election; the names of the registrar and judges of election; and the dates, hours, and place or places of registration. The Board of Elections may, in its discretion, also cause such notice to be posted in such public place or places as the Board may choose.

(c). In the special election, those voters who favor adopting the revised and consolidated Charter of the City of Boiling Spring Lakes as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Adopting The New City Charter", and those voters who are opposed to adopting the revised and consolidated City Charter as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST Adopting The New City Charter".

Sec. 2. If the majority of the votes cast in such special election shall be cast "FOR Adopting The New City Charter", then the "Charter of the City of Boiling Spring Lakes" as set forth in this act, and all other provisions of this act, shall be in full force and effect from and after the date upon which a

certificate of election shall have been issued by the Chairman of the City of Boiling Spring Lakes Board of Elections in accordance with G.S. 163-301.

Sec. 3. If the majority of the votes cast in such special election shall be cast "AGAINST Adopting The New City Charter", then Sections 4 through 11 of this act shall have no force and effect, and the existing Charter of the City shall remain in full force and effect.

Sec. 4. The Charter of the City of Boiling Spring Lakes is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF BOILING SPRING LAKES.

ARTICLE I. Incorporation and Corporate Powers.

Sec. 1. *Incorporation and General Powers.*—The City of Boiling Spring Lakes in the County of Brunswick shall continue to be a body corporate and politic under the name of the 'City of Boiling Spring Lakes', and under that name the City shall have and may exercise all the powers, duties, rights, privileges and immunities conferred and imposed upon municipal corporations by the Laws of North Carolina.

ARTICLE II. Corporate Boundaries.

Sec. 2.1. *Existing Corporate Boundaries.*—The corporate boundaries of the City of Boiling Spring Lakes, until changed in accordance with law, are as follows:

All that certain piece, parcel, or tract of land lying and being in Town Creek Township, Brunswick County, North Carolina, formerly known as the Allen Creek Tract, but more recently as the Boiling Spring Tract, which tract of land lies on both sides of Allen Creek and on both sides of North Carolina Highway 87 and contains within its perimeter 14,000 acres, more or less, said lands being all the lands, without exception, lying within the outer bounds of a certain survey made by J. B. Atkinson, Surveyor, a map thereof being duly recorded in the Book of Maps, 1, Page 87, in the Office of the Register of Deeds of Brunswick County, North Carolina, to which map reference is hereby made for greater particularity of description.

ARTICLE III. Governing Body.

Sec. 3.1. *Composition of the Governing Body.*—The governing body of the City of Boiling Spring Lakes shall consist of a Mayor, and a Board of Commissioners composed of four members.

Sec. 3.2. *Mayor and Mayor Pro Tempore.*—The Mayor shall be the chairman of the Board of Commissioners. He shall have the right to vote on all matters before the Board of Commissioners, but shall have no right to vote to break a tie vote in which he participated. The Mayor shall be the official representative and spokesman for the City, and shall have all the powers and responsibilities of mayors as provided in the General Statutes. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

Sec. 3.3. *Terms of the Mayor and Commissioners.*—(a) Except as provided below, the Mayor shall serve for a term of two years, and the Commissioners shall serve for terms of four years each, provided further, that the Mayor and Commissioners shall serve until their successors are elected and qualified, pursuant to the General Statutes of North Carolina.

(b) At the regular municipal elections in November, 1977, and biennially thereafter, the Mayor shall be elected by the qualified voters of the City for a term of two years.

(c) At the regular municipal elections in November, 1977, one Commissioner shall be elected for a term of four years, to fill the seat of one of the Commissioners whose term is then expiring. The second Commissioner whose term is then expiring shall step down from office at the organizational meeting of the governing body in December, 1977, and his seat shall not be filled. At the regular municipal elections in November, 1979, three Commissioners shall be elected. The two candidates receiving the highest number of votes, respectively, at this election shall be elected to terms of four years each, and the candidate receiving the third highest number of votes shall be elected for a term of two years. Biennially thereafter, two Commissioners shall be elected for terms of four years each. All Commissioners shall be elected by the qualified voters of the City.

Sec. 3.4. *Qualifications, Vacancies, Quorum.*—(a) No person shall be eligible to be a candidate for, or to be elected as, Mayor or Commissioner or to serve in such capacity, unless he possesses the qualifications set forth in Article VI of the Constitution of the State of North Carolina.

(b) In the event a vacancy occurs in the office of Mayor or Commissioner, the Mayor and Board of Commissioners shall by majority vote appoint some qualified person to fill the vacancy for the remainder of the unexpired term.

(c) Official action of the governing body shall be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Governing Body, excluding vacant seats, is present.

ARTICLE IV. Elections.

Sec. 4.1. *Regular Municipal Elections.*—The regular municipal elections of the City of Boiling Spring Lakes shall be conducted in accordance with the nonpartisan plurality method of election, as set forth in G.S. 163-279(a)(1) and Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina.

ARTICLE V. Administration.

Sec. 5.1. *Administrative Officers and Employees.*—Consistent with applicable State laws, the governing body may establish positions, provide for the appointment of administrative officers and employees, and generally organize the City government to promote the orderly and efficient administration of the affairs of the City. The Mayor, with the approval of the Board of Commissioners, shall make appointments to fill vacancies in administrative officer and employee positions. All employees of the City of Boiling Spring Lakes shall serve at the pleasure of the Governing Body."

Sec. 5. The purpose of this act is to revise and consolidate the Charter of the City of Boiling Spring Lakes. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 6. The following act, having served the purpose for which it was enacted, and having been consolidated in part into this act is hereby repealed:

CHAPTER	LAW
182	Session Laws 1961

Sec. 7. No provision of this act is intended, nor shall be construed to affect in any way any rights or interests whether public or private:

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 8. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 9. (a) All existing ordinances and resolutions of the City of Boiling Spring Lakes, and all existing rules or regulations of departments or agencies of the City of Boiling Spring Lakes, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Boiling Spring Lakes or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 10. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 11. All laws and portions of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1977.

H. B. 79 CHAPTER 63

AN ACT TO PLACE YADKIN COUNTY UNDER G.S. 14-111.2, RELATING TO OBTAINING AMBULANCE SERVICES WITHOUT INTENDING TO PAY.

The General Assembly of North Carolina enacts:

Section 1. The second paragraph of G.S. 14-111.2 is hereby amended by adding the following counties in appropriate alphabetical order: Yadkin, Beaufort, Hyde, Caldwell, Cleveland, Scotland, Transylvania, Haywood, Henderson, Pasquotank, Mecklenburg, Union.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1977.

H. B. 104 **CHAPTER 64**

AN ACT TO PLACE YADKIN COUNTY UNDER G.S. 44-51.8 RELATING TO ATTACHMENT OR GARNISHMENT FOR AMBULANCE SERVICE IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8 is amended by adding the following counties in appropriate alphabetical order: Yadkin, Anson, Tyrrell, Transylvania, Haywood, Alleghany, Mecklenburg, Henderson, Cleveland, Surry, McDowell, Cumberland and Union.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1977.

H. B. 189 **CHAPTER 65**

AN ACT TO TRANSFER THE STATE PORTS AUTHORITY AND THE NAVIGATION AND PILOTAGE COMMISSIONS TO THE DEPARTMENT OF COMMERCE AND TO AMEND G.S. 143-216 RELATING TO THE CREATION, MEMBERSHIP, APPOINTMENT AND TERMS OF THE STATE PORTS AUTHORITY AND TO AMEND G.S. 143-218 RELATING TO PERSONNEL EMPLOYED BY THE STATE PORTS AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-216, as the same appears in the 1975 Cumulative Supplement to G.S. Replacement Volume 3C, is hereby rewritten to read as follows:

"§ 143-216. *Creation of authority; membership, appointment, terms and vacancies; officers; meetings and quorum; compensation.*—The North Carolina State Ports Authority is hereby created. It shall be governed by a board composed of nine members and hereby designated as the authority. Members of the General Assembly shall be eligible for appointment to the membership on the authority. The General Assembly suggests and recommends that no person be appointed to the authority who is domiciled in the district of the North Carolina House of Representatives or the North Carolina Senate in which a State port is located. The Governor shall appoint seven members to the authority, the Lieutenant Governor shall appoint one member and the Speaker of the House of Representatives shall appoint one member.

The initial appointments by the Governor shall be made on or after the date of ratification, two terms to expire July 1, 1979; two terms to expire July 1, 1981; and three terms to expire July 1, 1983. Thereafter, at the expiration of each stipulated term of office all appointments made by the Governor shall be for a term of six years. The members of the authority appointed by the Governor shall be selected from the State at large and insofar as practicable shall represent each section of the State in all of the business, agriculture, and industrial interests of the State. Any vacancy occurring in the membership of the authority appointed by the Governor shall be filled by the Governor for the unexpired term. The Governor shall have the authority to remove any member appointed by the Governor.

The Speaker of the House of Representatives shall appoint one member to the board from the current membership of the North Carolina House of Representatives on or after the date of ratification for a term of office to expire on July 1, 1979, and an appointment shall be made by the Speaker of the House for a term of office each two years thereafter. Any vacancy on the authority by reason of the resignation, or for any other reason, of the member appointed by the Speaker, shall be filled by the Speaker.

The Lieutenant Governor shall appoint one member to the board from the current membership of the North Carolina Senate on or after the date of ratification for a term of office to expire on July 1, 1979, and an appointment shall be made by the Lieutenant Governor for a term of office each two years thereafter. Any vacancy on the board by reason of the resignation, or for any other reason, of the board member appointed by the Lieutenant Governor shall be filled by the Lieutenant Governor.

The Governor shall appoint from the members of the authority the chairman and vice-chairman of the authority. The Secretary of Commerce or his designee shall serve as secretary of the authority. The members of the authority shall appoint a treasurer of the authority.

The authority shall meet once in each 60 days at such regular meeting time as the authority by rule may provide and at any place within the State as the authority may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the authority shall not be entitled to compensation for their services, but they shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5."

Sec. 2. G.S. 143-218(5), as the same appears in the 1975 Supplement to G.S. Replacement Volume 3C, is hereby rewritten to read as follows:

"(5) The authority with the approval of the Governor or his designee shall appoint such management personnel as they deem necessary and who shall serve at the pleasure of the authority. The salaries of these personnel shall be fixed by the Governor with the approval of the Advisory Budget Commission. The authority shall have the power to appoint, employ and dismiss such number of employees as it may deem necessary to accomplish the purposes of this Article subject to the availability of funds. The power to appoint, employ and dismiss personnel, and to fix the number thereof, may be delegated to one or more of the management personnel upon such terms and subject to such restrictions and limitations as the authority may deem proper. The compensation of such employees shall be fixed by the authority. There shall be an executive committee consisting of the chairman of the authority and two other members elected annually by the authority. The executive committee shall be vested with authority to do all acts which are authorized by the bylaws of the authority. Members of the executive committee shall serve until their successors are elected."

Sec. 3. G.S. 143B-353 is hereby repealed.

Sec. 4. G.S. 143B-354, as the same appears in the 1975 Cumulative Supplement to Volume 3C is hereby amended on lines 5, 11 and 12 by deleting the word "Transportation" and inserting in lieu thereof the word "Commerce".

Sec. 5. G.S. Chapter 143A, Article 15 is hereby amended by adding thereto a new G.S. 143A-185.1 to read as follows:

"§ 143A-185.1. *North Carolina State Ports Authority; transfer.*—The North Carolina State Ports Authority, as contained in Article 22 of Chapter 143 of the General Statutes, is hereby transferred by a Type II transfer to the Department of Commerce."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1977.

H. B. 228 CHAPTER 66

AN ACT TO ALLOW CIVIC AND CHARITABLE ORGANIZATIONS TO SPONSOR OR OPERATE THE GAME OF BINGO IN LINCOLN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 627 of the 1971 Session Laws is hereby amended by adding the word "Lincoln" between the words "of" and "Polk" on line 3 thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1977.

H. B. 69 CHAPTER 67

AN ACT TO PREVENT FACILITATION OF THE UNLAWFUL TAKING OF DEER WITH THE AID OF BOATS BY MEANS OF PLACING A RESTRICTION UPON THE POSSESSION OF FIREARMS ABOARD MOTOR-PROPELLED VESSELS IN THE MEHERRIN RIVER IN A CERTAIN DESIGNATED LOCATION.

The General Assembly of North Carolina enacts:

Section 1. No person aboard a motor-propelled vessel on the Meherrin River between the point where the river crosses the Virginia-North Carolina State line and the point where the river contacts the city limits of Murfreesboro shall have in his possession a firearm during the open season for taking deer. No person in charge of any motor-propelled vessel on the Meherrin River within the above described area shall permit anyone to have in his possession any firearm aboard such vessel during the open season for taking deer.

Sec. 2. As used in this act, a motor-propelled vessel includes any vessel propelled by machinery or equipped with propulsion machinery, except that the term shall include an outboard motorboat, the motor for which has been completely removed from place and stored aboard the vessel.

Sec. 3. The provisions of this act shall not apply to any person exempt from provisions of G.S. 14-269 with respect to any activities lawfully engaged in while carrying out his duties.

Sec. 4. Enforcement officers of the North Carolina Wildlife Resources Commission shall have jurisdiction to enforce the provisions of this act.

Sec. 5. Any person violating the provisions of this act shall be punished by fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days, or both.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1977.

H. B. 103 CHAPTER 68

AN ACT TO REGULATE HUNTING OF EUROPEAN WILD BOAR IN AVERY, BURKE, CALDWELL AND WATAUGA COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 608 of the 1965 Session Laws is hereby amended by adding to subparagraph (4) of Section 1 after "rifled slugs" the term "or bow and arrow".

Sec. 2. Nothing in this act shall be deemed to prohibit the killing of European wild boar at any time when such animals are destroying crops on the land owned or leased by the person killing such boar.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1977.

S. B. 137 CHAPTER 69

AN ACT TO AMEND CHAPTER 101 OF THE 1973 SESSION LAWS RELATING TO COLUMBUS COUNTY SHERIFFS AND POLICE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 101 of the 1973 Session Laws is hereby amended by deleting from line 2 the words "no more than ten (10) county policemen." and substituting in lieu thereof the following: "any such number of county policemen as the Commission finds reasonably necessary to provide protection to the citizens of Columbus County and to their property and to promote the public health, safety, morals and general welfare of the citizens of Columbus County."

Sec. 2. Section 16 of Chapter 101 of the 1973 Session Laws is hereby amended by deleting the second sentence, beginning with the words "Said sheriff" and ending with the words "one (1) clerk." and substituting in lieu thereof the following: "The sheriff shall have such number of deputies, either regular or special, court officers and clerks as shall be fixed from time to time by resolution of the Board of County Commissioners of Columbus County provided that the Board of County Commissioners shall keep in mind that the primary duty and responsibility of the sheriff and his deputies shall be that of civil process and to attend upon the superior and district courts while in session."

Sec. 3. Chapter 101, Session Laws of 1973, is hereby amended by repealing all of Section 18 thereof.

Sec. 4. Chapter 920, Session Laws of 1973, is hereby amended by repealing Section 6 thereof.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1977.

H. B. 119

CHAPTER 70

AN ACT TO RESTRUCTURE AND RENAME THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS AS THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

——CRIME AND SAFETY DEPARTMENT CREATED AND CONSTITUTED

Section 1. A new Article 5A is added to G.S. Chapter 143B to read as follows:

"ARTICLE 5A.

"DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY.

"PART 1. GENERAL PROVISIONS.

"§ 143B-256. *Department of Crime Control and Public Safety—creation.*—There is hereby created and constituted a department to be known as the 'Department of Crime Control and Public Safety', with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Article.

"§ 143B-256.1. *Department of Crime Control and Public Safety—duties.*—It shall be the duty of the Department of Crime Control and Public Safety to provide assigned law enforcement and emergency services to protect the public against crime and against natural and man-made disasters; to plan and direct a coordinated effort by the law enforcement agencies of State government and to insure maximum cooperation between State and local law enforcement agencies in the fight against crime; to prepare annually a State plan for the State's criminal justice system; to serve as the State's chief coordinating agency to control crime, to insure the safety of the public and to insure an effective and efficient State criminal justice system; to have charge of investigations of criminal matters particularly set forth in this Article and of such other crimes and areas of concern in the criminal justice system as the Governor may direct; to regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State; to provide national guard troops trained by the State to federal standards; to insure the preparation, coordination, and currency of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life, and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes; and to develop a plan for a coordinated and integrated electronic communications system for State government and cooperating local agencies, including coordination and integration of existing electronic communications systems.

"§ 143B-256.2. *Department of Crime Control and Public Safety—functions.*—(a) All functions, powers, duties and obligations heretofore vested in the following subunits of the following departments are hereby transferred to and vested in the Department of Crime Control and Public Safety:

(1) The National Guard, Department of Military and Veterans Affairs;

(2) Civil Preparedness, Department of Military and Veterans Affairs;

(3) State Civil Air Patrol, Department of Military and Veterans Affairs;

(4) State Highway Patrol, Department of Transportation;
(5) State Board of Alcoholic Control Enforcement Division, Department of Commerce;
(6) Governor's Crime Commission, Department of Natural and Economic Resources;
(7) Crime Control Division, Department of Natural and Economic Resources;
(8) Criminal Justice Information System Board, Department of Natural and Economic Resources; and
(9) Criminal Justice Information System Security and Privacy Board, Department of Natural and Economic Resources.

(b) The department shall perform such other functions as may be assigned by the Governor.

(c) All such functions, powers, duties and obligations heretofore vested in any existing agency in Article 5 of Chapter 143B of the General Statutes are hereby transferred to and vested in the Department of Crime Control and Public Safety, except as otherwise provided by the Executive Organization Act of 1973, as amended.

"§ 143B-256.3. *Department of Crime Control and Public Safety—head.*—(a) The head of the Department of Crime Control and Public Safety is the Secretary of Crime Control and Public Safety, who shall be known as the Secretary. The Secretary shall have such powers and duties as are conferred on him by this Chapter, delegated to him by the Governor, and conferred on him by the Constitution and laws of this State.

(b) The Secretary, through appropriate subunits of the department, shall, at the request of the Governor, provide assistance to State and local law enforcement agencies, district attorneys, judges, and the Department of Correction, when called upon by them and so directed.

(c) In the event that the Governor, in the exercise of his constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of State government to provide protection to the people from natural or man-made disasters or emergencies, including but not limited to wars, insurrections, riots, civil disturbances, or accidents, the Secretary, under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized.

"PART 2.

"North Carolina National Guard.

"§ 143B-257. *North Carolina National Guard.*—The North Carolina National Guard as provided for in G.S. Chapter 127A is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

"PART 3.

"North Carolina Civil Preparedness Agency.

"§ 143B-257.5. *North Carolina Civil Preparedness Agency.*—The State Civil Preparedness Agency as provided for in G.S. Chapter 166 is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

"PART 4.

"State Civil Air Patrol.

"§ 143B-257.10. *State Civil Air Patrol.*—The State Civil Air Patrol as provided for in G.S. 167-2 is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

"PART 5.

"State Highway Patrol Division.

"§ 143B-257.15. *State Highway Patrol.*—The State Highway Patrol as provided for in Article 4 of G.S. Chapter 20 is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

"PART 6.

"Alcohol Law Enforcement Division.

"§ 143B-257.20. *State Board of Alcoholic Control Enforcement Division.*—The State Board of Alcoholic Control Enforcement Division as provided for in Part 2 of Article 2 of G.S. Chapter 18A is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

"PART 7.

"Governor's Crime Commission.

"§ 143B-257.25. *Governor's Crime Commission.*—The Governor's Crime Commission as provided for in Part 23 of Article 7 of G.S. Chapter 143B and 1977 Session Laws Chapter 11 is hereby transferred by a Type II transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

"PART 8.

"Crime Control Division.

"§ 143B-257.30. *Crime Control Division.*—The Crime Control Division, Department of Natural and Economic Resources, as provided for in Part 23 of Article 7 of G.S. Chapter 143B and 1977 Session Laws Chapter 11 is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety."

——NATIONAL GUARD/CONFORMING CHANGES

Sec. 2. Whenever the words "Department of Military and Veterans Affairs" are used in G.S. 127A-1 through G.S. 127A-195, as said sections appear in the 1975 Supplement to 1974 G.S. Replacement Volume 3B, the same shall be deleted and the words "Department of Crime Control and Public Safety" shall be inserted in lieu thereof.

Sec. 3. A new Section G.S. 127A-17.1 is added to G.S. Chapter 127A, as the same appears in the 1975 Supplement to 1974 G.S. Replacement Volume 3B, to read as follows:

"§ 127A-17.1. *Confidentiality of national guard records.*—Notwithstanding any provision of G.S. Chapter 143B, no records of the national guard in the Department of Crime Control and Public Safety shall be disclosed or used for any purpose except for official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this Chapter shall convert records which are the property of the federal government into State property."

——CIVIL PREPAREDNESS/CONFORMING CHANGES

Sec. 4. Whenever the words "Department of Military and Veterans Affairs" are used in the provisions of G.S. 166-1 through G.S. 166-12, the same

shall be deleted and the words "Department of Crime Control and Public Safety" shall be inserted in lieu thereof.

——CIVIL AIR PATROL/CONFORMING CHANGES

Sec. 5. Whenever the words "Department of Military and Veterans Affairs" are used in the provisions of G.S. 167-2, the same shall be deleted and the words "Department of Crime Control and Public Safety" shall be inserted in lieu thereof.

——STATE HIGHWAY PATROL/CONFORMING CHANGES

Sec. 6. The first sentence of subsection (a) of G.S. 20-185, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is rewritten to read as follows:

"The State Highway Patrol shall consist of a commanding officer, who shall be appointed by the Governor and whose rank shall be designated by the Governor, and such additional subordinate officers and members as the Secretary of Crime Control and Public Safety, with the approval of the Governor, shall direct."

Sec. 7. Subsection (f) of G.S. 20-185, as it appears in the 1975 Supplement to Volume 1C of the General Statutes, is amended on line 4 by inserting the words "of Motor Vehicles, Department of Transportation," after the word "Division", and is further amended on line 4 by inserting the words "of the Division of Motor Vehicles, Department of Transportation" immediately after the word "section".

Sec. 8. Subsection (f) of G.S. 20-185, as it appears in the 1975 Supplement to Volume 1C of the General Statutes, is further amended in line 5 by adding the words "of Motor Vehicles" immediately after the word "Commissioner".

Sec. 9. G.S. 20-186 is rewritten to read as follows:

"§ 20-186. *Oath of office.*—Each member of the State Highway Patrol shall subscribe and file with the Secretary of Crime Control and Public Safety an oath of office for the faithful performance of his duties."

Sec. 10. The third paragraph of G.S. 20-188, as it appears in the 1975 Supplement to Volume 1C of the General Statutes, is rewritten to read as follows:

"The Secretary of Crime Control and Public Safety shall direct the officers and members of the State Highway Patrol in the performance of such other duties as may be required for the enforcement of the motor vehicle laws of the State."

Sec. 11. G.S. 20-191, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is rewritten to read as follows:

"§ 20-191. *Use of facilities.*—Office space and other equipment and facilities of the Division of Motor Vehicles, Department of Transportation, presently being used by the State Highway Patrol shall continue to be used by the patrol, and joint use of space, equipment and facilities between any division of the Department of Transportation and the State Highway Patrol may continue, unless such arrangements are changed by agreements between the Secretary of Crime Control and Public Safety and the Secretary of Transportation."

Sec. 12. Subsection (a) of G.S. 20-194 is rewritten to read as follows:

"(a) All expenses incurred in carrying out the provisions of this Article shall be paid out of the highway fund."

Sec. 13. Whenever the words "Commissioner of Motor Vehicles" are used in the provisions of G.S. 20-184 through G.S. 20-196.3 (except in the case of G.S. 20-185(f) as amended above), the same shall be deleted and the words "Secretary of Crime Control and Public Safety" shall be inserted in lieu thereof.

Sec. 14. Whenever the words "Division of State Highway Safety and Patrol" are used in the provisions of G.S. 20-184 through G.S. 20-196.3, the same shall be deleted and the words "State Highway Patrol Division" shall be inserted in lieu thereof.

Sec. 14.1. G.S. 20-196.3 as it appears in the 1975 Cumulative Supplement to 1975 Replacement Volume 1C is amended on line 3 immediately after the words "Secretary of" by deleting the words "the Department of Transportation" and inserting in lieu thereof the words "Crime Control and Public Safety".

Sec. 15. Whenever the words "Division of Motor Vehicles" are used in the provisions of G.S. 20-184 through G.S. 20-196.3, the same shall be deleted and the words "Department of Crime Control and Public Safety" shall be inserted in lieu thereof.

——STATE BOARD OF ALCOHOLIC CONTROL/CONFORMING CHANGES

Sec. 15.1. G.S. 18A-15, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is amended by rewriting subsection (1) to read as follows:

"(1) In conjunction with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, to see that all the laws relating to the sale and control of intoxicating liquor are observed and performed."

Sec. 15.2. G.S. 18A-15, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is further amended by inserting in line 14 of subsection (12) between the word "Board" and the word "and" the following words and punctuation: ", the Alcohol Law Enforcement Division,".

Sec. 16. Subsection (15) of G.S. 18A-15, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is rewritten to read as follows:

"(15) To appoint or commission one or more hearing officers who shall have the full authority to make investigations, hold hearings, and make findings of fact. Upon the approval by the State board of the findings and orders of suspension or revocation of the permit of any licensee made and entered by any such hearing officer, the findings of such hearing officer shall be deemed to be the findings and the order of the board."

Sec. 17. G.S. 18A-19 is rewritten to read as follows:

"§ 18A-19. *Department of Crime Control and Public Safety, Alcohol Law Enforcement Division—responsibilities.*—(a) The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall have the responsibility to enforce the provisions of this Chapter and Article 5 of G.S. Chapter 90 in controlling the sale, purchase, transporting, manufacture and possession of intoxicating liquors and controlled substances in the State, to perform investigatory and other duties, as directed by the Secretary of Crime Control and Public Safety, as may be required for the enforcement of the rules and regulations of the State Board of Alcoholic Control, and to perform such other duties as may be assigned by the Secretary of Crime Control and Public Safety or the Governor, as provided in Article 5A of G.S. Chapter 143B.

(b) The Secretary of Crime Control and Public Safety shall have the power and authority to appoint or commission Alcohol Law Enforcement Agents (previously referred to as State A.B.C. Officers) and other enforcement personnel authorized under Part 2 of this Article, and to appoint a 'Director of the Alcohol Law Enforcement Division,' who shall be in charge of the Alcohol Law Enforcement Division.

(c) The Secretary of Crime Control and Public Safety may commission as Alcohol Law Enforcement Agents such regular employees of the State Board of Alcoholic Control as the Secretary of Crime Control and Public Safety designates for the purpose of enforcing the provisions of this Chapter.

(d) Any person commissioned as an Alcohol Law Enforcement Agent shall have statewide jurisdiction. Such officers shall have the same powers and authorities as law enforcement officers generally and may arrest as authorized in G.S. 15A-401.

Before any person commissioned as an Alcohol Law Enforcement Agent shall exercise any power of arrest under this Chapter, he shall take the oath required of public officers before an officer authorized to administer oaths.

(e) All Alcohol Law Enforcement Agents shall have authority to investigate the operation of the licensed premises of all persons licensed under this Chapter, to examine the books and records of such licensee, to procure evidence with respect to violations of this Chapter or any rules and regulations adopted thereunder, and to perform such other duties as prescribed by law or regulation. Alcohol Law Enforcement Agents shall have the right to enter any licensed premises in the State in the performance of their duty, at any hour of the day or night. Refusal by a permittee or by any employee of a permittee to permit such officers to enter the premises shall be cause for revocation or suspension of the permit of the permittee.

(f) Notices, orders, or demands issued by the State Board of Alcoholic Control for the surrender of permits may be served and executed by Alcohol Law Enforcement Agents, and these officers, while serving and executing such notices, orders, or demands, shall have all the power and authority possessed by law enforcement officers when serving and executing a warrant charging a violation of the criminal laws of the State."

Sec. 18. Subsection (a) of G.S. 18A-22 is amended in line 2 by deleting the word "State" and inserting in lieu thereof the following words: "Alcohol Law Enforcement Agents".

Sec. 19. G.S. 18A-38, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is amended by rewriting the third sentence of subsection (a) to read as follows: "With the assistance of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, the Board shall inquire into the character of the applicant and the location, general appearance, and type of place or business of the applicant."

Sec. 19.1. G.S. 18A-39 is amended in the last sentence of subsection (b) by deleting the words "Enforcement Division" and inserting in lieu thereof the words: "Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety".

Sec. 20. Subsection (a) of G.S. 18A-41, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is amended by deleting the words "State A.B.C. Officers" from the first sentence of the first paragraph, and

from the fourth and sixth sentences of the second paragraph, and by substituting in lieu thereof the words "Alcohol Law Enforcement Agents".

Sec. 20.1. G.S. 18A-47 is amended by rewriting subdivision (a)(2) to read as follows:

"(2) To test wines (fortified or unfortified) possessed or offered for sale or sold in this State and to make chemical or laboratory analyses of said wines or to determine in any other manner whether said wines meet the standards established by the Board."

Sec. 20.2. G.S. 18A-47 is further amended by rewriting subsection (c) to read as follows:

"(c) Manufacturers, wineries, bottlers, and wholesalers, or any other persons selling wine (fortified or unfortified) for the purpose of resale, whether on their own account or for or on behalf of other persons, shall upon request of the State A.B.C. Board or the Director of the Alcohol Law Enforcement Division, furnish a verified statement of a laboratory analysis of any wine sold or offered for sale by such persons."

Sec. 20.3. G.S. 18A-47 is further amended by adding the following new subsection (e):

"(e) The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety is authorized and empowered to test wines (fortified and unfortified) possessed or offered for sale or sold in this State and to make chemical or laboratory analyses of said wines or to determine in any other manner whether said wines meet the standards established by the State Board of Alcoholic Control; to confiscate and destroy any wines (fortified or unfortified) not meeting said standards; to enter and inspect any premises upon which said wines (fortified and unfortified) are possessed or offered for sale; to examine any and all books, records, accounts, invoices, or other papers or data which in any way relate to the possession or sale of said wines."

Sec. 20.4. G.S. 18A-48 is rewritten to read as follows:

"§ 18A-48. *Standards for malt beverages.*—(a) The State Board of Alcoholic Control is authorized to fix such standards for malt beverages as are determined by the Board to best protect the public against beverages containing deleterious, harmful, or impure substances or elements, or an improper balance of elements, and against spurious or imitation beverages unfit for human consumption. The State Board of Alcoholic Control and the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety are authorized to test malt beverages possessed or offered for sale or sold in this State and to make chemical or laboratory analyses of such beverages or to determine in any other manner whether the beverages meet the standards established by the State Board of Alcoholic Control.

(b) The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety is authorized and empowered to confiscate and destroy any beverages not meeting the standards established by the State Board of Alcoholic Control; to enter and inspect any premises on which such beverages are possessed or offered for sale; to examine any and all books, records, accounts, invoices, or other papers or data which in any way relate to the possession or sale of such beverages; and to take all proper steps for the prosecution of persons violating the provisions of this section and for carrying out the provisions and intent thereof.

(c) The owner of malt beverages confiscated under this section shall be served with written notice to show cause within five days before the State Board of Alcoholic Control why the order should not be made permanent. No beverages may be destroyed until the order is final. The owner shall have the right to appeal from the ruling of the State Board of Alcoholic Control to the Superior Court Division of the General Court of Justice in the county in which the beverages were confiscated within 10 days from the final order of the State Board of Alcoholic Control.

(d) Manufacturers, bottlers, wholesalers, or any other persons selling malt beverages for the purpose of resale, whether on their own account or for or on behalf of other persons, shall, upon the request of the State A.B.C. Board or the Director of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety furnish a verified statement of a laboratory analysis of any malt beverage sold or offered for sale by such persons."

Sec. 20.5. G.S. 18A-50 is amended in subsection (d) by striking the words "State Board of Alcoholic Control" from the first sentence and by inserting in lieu thereof the words "Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety", and by adding immediately after the words "State Board" at the beginning of the second sentence thereof the words "of Alcoholic Control".

Sec. 21. G.S. 18A-54 is amended by striking the period at the end of the second sentence of subsection (a) and inserting in lieu thereof the following words and punctuation: "and the Secretary of Crime Control and Public Safety.".

Sec. 21.1. G.S. 18A-55 is amended by striking the words "representatives of the Board" from the second sentence and by inserting in lieu thereof the words "Alcohol Law Enforcement Agents".

——EXECUTIVE ORGANIZATION ACT OF 1973/CONFORMING CHANGES

Sec. 22. Subsection (4) of G.S. 143B-2, as the same appears in the 1975 Supplement to 1974 G.S. Replacement Volume 3C, is rewritten to read as follows:

"(4) Department of Crime Control and Public Safety".

Sec. 23. Subsection (4) of G.S. 143B-6, as the same appears in the 1975 Supplement to 1974 G.S. Replacement Volume 3C, is rewritten to read as follows:

"(4) Department of Crime Control and Public Safety".

——VETERANS AFFAIRS/TRANSFER

Sec. 24. Part 2 of Article 5 of G.S. Chapter 143B, as it appears in 1974 Replacement Volume 3C of the General Statutes, is revised, renumbered and transferred to Article 9 of G.S. Chapter 143B, so that the transferred part will be numbered "Part 13."

Sec. 25. Former G.S. 143B-252 and G.S. 143B-253, as transferred by Section 24 of this act, are renumbered G.S. 143B-399 and G.S. 143B-400 respectively.

Sec. 26. The Division of Veterans Affairs of the Department of Military and Veterans Affairs as described in Article 5 of G.S. Chapter 143B is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, to the Department of Administration. The Secretary of Administration is hereby empowered and

directed to employ within the Department of Administration an additional assistant secretary as Assistant Secretary for Veterans Affairs.

——VETERANS AFFAIRS/CONFORMING CHANGES

Sec. 27. Whenever the words "Department of Military and Veterans Affairs" are used in the provisions of G.S. 143B-252 and G.S. 143B-253, and G.S. 165-1 through G.S. 165-44, the same shall be deleted and the words "Department of Administration" shall be inserted in lieu thereof.

Sec. 28. A new section G.S. 165-11.1 is added to Article 1 of G.S. Chapter 165, to read as follows:

"§ 165-11.1. *Confidentiality of Veterans Affairs records.*—Notwithstanding any other provisions of G.S. Chapter 143B, no records of the Division of Veterans Affairs in the Department of Administration shall be disclosed or used for any purpose except for official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this Chapter shall convert records which are the property of the federal government into State property."

——CRIMINAL JUSTICE TRAIN. & STAND. COUNCIL/CONFORMING CHANGES

Sec. 29. Subdivision (3) of subsection (a) of G.S. 17A-3 is amended in line 3 by striking the words "Department of Motor Vehicles to be selected by the Commissioner of Motor Vehicles", and inserting in lieu thereof the following: "Department of Crime Control and Public Safety to be selected by the Secretary of the Department".

Sec. 30. The second paragraph of subsection (b) of G.S. 17A-3, as it appears in 1975 Replacement Volume 1C of the General Statutes, is amended in line 3 by striking the words "Motor Vehicles" and inserting in lieu thereof the following: "Crime Control and Public Safety,".

——CRIMINAL JUSTICE ED. & TRAIN. SYSTEM/CONFORMING CHANGES

Sec. 31. Subdivision (9) of subsection (a) of G.S. 17B-4, as the same appears in the 1975 Supplement to 1975 G.S. Replacement Volume 1C, is amended in line 5 by striking the words "Commissioner of Motor Vehicles" and inserting in lieu thereof the following: "Secretary of Crime Control and Public Safety".

——REPEAL LAW & ORDER FUNCTIONS IN DEPT. OF NAT. & ECON. RES.

Sec. 32. Subsection (b) of G.S. 143-323, as the same appears in the 1975 Supplement to 1974 G.S. Replacement Volume 3C, is repealed.

——REPEAL DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

Sec. 33. Part 1 of Article 5 of G.S. Chapter 143B, as it appears in 1974 Replacement Volume 3C of the General Statutes, is repealed.

——SEVERABILITY

Sec. 34. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions of the act or applications which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

——GENERAL TRANSFER

Sec. 35. All transfers of personnel, equipment, appropriations and functions of an agency or division transferred by this act to the Department of

Crime Control and Public Safety shall be completed by July 1, 1977, but the Secretary of Crime Control and Public Safety shall have authority over such personnel, equipment, appropriations and functions transferred by this act upon the effective date of this act.

Sec. 36. All unexpended 1976-77 appropriations and other funds in the administrative section of the Department of Military and Veterans Affairs, and all unexpended 1976-77 appropriations and other funds in the subunits transferred in Section 1 of this act, are hereby transferred to the Department of Crime Control and Public Safety. The department is hereby authorized to utilize funds awarded from the Contingency and Emergency Fund for such additional administrative expenses as may be required for the remainder of the 1976-77 fiscal year.

——EFFECTIVE DATE

Sec. 37. This act shall become effective on April 1, 1977.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 152 CHAPTER 71

AN ACT TO PERMIT THE COUNTY COMMISSIONERS OF CURRITUCK COUNTY TO APPOINT THE CURRITUCK COUNTY BOARD OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina enacts:

Section 1. The provisions of G.S. 18A-16 notwithstanding, the members of the Currituck County Board of Alcoholic Control shall be selected initially by majority vote of the Board of County Commissioners of Currituck County, and vacancies on the Board of Alcoholic Control shall be filled in the same manner. Any member of the Currituck County Board of Alcoholic Control may be removed at any time by the Board of County Commissioners of Currituck County whenever such board finds by a majority vote of its entire membership that a member or members are unfit to serve on the Board of Alcoholic Control. Except as expressly modified by the foregoing, G.S. 18A-16 shall remain in effect with regard to the Currituck County Board of Alcoholic Control.

Sec. 2. This act shall apply to appointments made after the expiration of terms now being served, and to vacancies occurring or continuing after the effective date of this legislation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1977.

H. B. 283 **CHAPTER 72**

AN ACT TO AMEND CHAPTER 1073 OF THE 1959 SESSION LAWS TO HAVE DAVIE COUNTY SHERIFF ISSUE PISTOL PERMITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1073 of the 1959 Session Laws is hereby amended by striking the word "Davie" from line 2 of Section 4 thereof.

Sec. 2. It is the intent and purpose of this act to provide that in Davie County pistol permits shall be issued by the sheriff of said county.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1977.

H. B. 295 **CHAPTER 73**

AN ACT AUTHORIZING THE CITY OF GREENSBORO TO CONVEY A FEE SIMPLE DETERMINABLE ESTATE IN APPROXIMATELY TEN ACRES OF LAND TO THE GREENSBORO FIREMAN'S CLUB, A NONPROFIT CORPORATION.

The General Assembly of North Carolina enacts:

Section 1. Upon a finding that the hereinafter described tract or parcel of land is not needed by the City of Greensboro for governmental purposes, the city council of the City of Greensboro may, by resolution, authorize and direct the conveyance of a fee simple determinable estate in said tract or parcel of land to the Greensboro Fireman's Club, a nonprofit corporation, without remuneration and without publication or advertising for bids but with the expressed understanding, condition and in consideration that said property shall be used in accordance with the specific purposes outlined in the Articles of Incorporation, including amendments thereto, and, more specifically, for the purpose of programs connected with fire fighting, skills, recreation and related activities for firemen of the City of Greensboro which will aid in the performance of their duties as members of the fire department of the City of Greensboro. The conveyance and use of the hereinafter described tract of land may be subject to such terms and conditions as the city council may determine.

Sec. 2. At such time as the hereinafter described tract or parcel of land ceases to be used for the purposes as hereinabove set forth or the Greensboro Fireman's Club becomes dissolved or otherwise inactive, then at that time the title to said tract or parcel of land shall automatically, by operation of law and without re-entry or suit on its part, be revested in the City of Greensboro, its successors or assigns, along with all privileges, structures and appurtenances thereunto belonging, forever.

Sec. 3. The above referred to tract or parcel of land is hereby described as follows:

BEGINNING at a point in the south margin of Air Harbor Road (formerly Hanock Dairy Road), said point being Margaret B. Richardson's northeast corner; thence north 75 deg. 14 min. 33 sec. east 109.89 feet along said south margin of Air Harbor Road to a new point, said point being City of Greensboro's northeast corner (Tract No. 1); thence South 07 deg. 15 min. 04 sec. east 49.43 feet along a new west line of City of Greensboro to a point; thence still with said west line south 31 deg. 44 min. 06 sec. east 898.49 feet to a new point in Sallie

Bass Heirs' west line; thence south 02 deg. 32 min. 45 sec. west 375.69 feet along said west line to a stone monument being a common corner of Sallie Bass Heirs, Cone Mills Corp. and grantor; thence south 67 deg. 47 min. 32 sec. west 434.44 feet along Cone Mills Corp. north line to a point, said point being a common corner of Cone Mills Corp., Margaret B. Richardson and grantor; thence north 07 deg. 09 min. 18 sec. west 1335.24 feet along Richardson's east line to the point of beginning; being approximately ten acres in size and subject to water line easement and right-of-way for access road and any other easements of record.

Also being a portion of County Tax Map 354, Block 723, Parcel 2.

Sec. 4. All laws and clauses in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1977.

S. B. 65 CHAPTER 74

AN ACT TO MAKE ISOLATED AMENDMENTS TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-310 as the same appears in the 1975 Cumulative Supplement to Volume 1A is hereby amended on line 4 by deleting the word "rendition" and inserting in lieu thereof the word "entry".

Sec. 2. G.S. 8-51, as the same appears in the 1969 Replacement Volume 1B is hereby amended by rewriting the last sentence thereof to read as follows: "Nothing in this section shall preclude testimony as to the identity of the operator of a motor vehicle in any case".

Sec. 3. G.S. 31-5.4, as the same appears in the 1976 Replacement Volume 2A is hereby amended on line two, after the word "but" by adding the following ", unless otherwise specifically provided in the will,".

Sec. 4. G.S. 44A-4(e)(1) as the same appears in the 1976 Replacement Volume 2A is hereby amended to read as follows:

"(1) Not less than 20 days prior to sale by public sale the lienor:

a. Shall cause notice to be mailed to the person having legal title to the property if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party or other person claiming an interest in the property who is actually known to the lienor or can be reasonably ascertained, provided that notices provided pursuant to subsection (b) hereof shall be sufficient for these purposes if such notices contain the information required by subsection (f) hereof; and

b. Shall advertise the sale by posting a copy of the notice of sale at the courthouse door in the county where the sale is to be held;

and shall publish notice of sale once a week for two consecutive weeks in a newspaper of general circulation in the same county, the date of the last publication being not less than five days prior to the sale."

Sec. 5. This act shall not affect pending litigation.

Sec. 6. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 11th day of March, 1977.

S. B. 79 **CHAPTER 75**

AN ACT TO EMPOWER THE CITY OF MT. AIRY TO REMOVE PARTICULAR TRACTS AND PARCELS OF LAND FROM ESTABLISHED SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. Upon finding that there is no longer a need to include within a particular service district, created pursuant to the provisions of Article 23, Chapter 160A of the General Statutes, any certain tract or parcel of land, the governing body of the city of Mt. Airy may by resolution redefine a service district by removing therefrom any tract or parcel of land which the governing body has determined need no longer be included in said district. The governing body shall hold a public hearing before adopting a resolution removing any tract or parcel of land from a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than two weeks before the date of the hearing. The removal of any tract or parcel of land from any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the governing body of the city.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1977.

S. B. 86 **CHAPTER 76**

AN ACT TO AMEND CHAPTER 346, SESSION LAWS OF 1973 TO AUTHORIZE THE RALEIGH REDEVELOPMENT COMMISSION TO PERMIT DISPOSITION OF LAND FOR A SPECIAL PURPOSE AT FAIR MARKET VALUE WITHOUT COMPETITIVE BIDDING; TO PERMIT DISPOSITION OF LAND ON THE BASIS OTHER THAN THE HIGHEST MONETARY BID WHERE SUCH DISPOSITION IS FOUND TO SERVE THE BEST INTEREST OF THE MUNICIPALITY AND TO DISPOSE OF PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 346, Session Laws of 1973, is hereby amended by rewriting Section 5 to read:

"Sec. 5. This act shall apply only to the Town of Chapel Hill and the City of Raleigh."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1977.

H. B. 10 **CHAPTER 77**

AN ACT TO INCORPORATE THE TOWN OF NAVASSA IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants of the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the "Town of Navassa", and shall have all the power, authority, rights, privileges or immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina, and particularly Chapter 160A of the General Statutes.

Sec. 2. The corporate limits of the Town of Navassa shall be as herein described until changed as authorized by law:

"Beginning at a point of the confluence of Sturgeon Creek and the Brunswick River said beginning point being located in Northwest Township, Brunswick County, North Carolina, and thence from said beginning point in a general westerly direction with the run of Sturgeon Creek to the confluence of Sturgeon Creek and Mill Creek, thence in a general north westerly direction with the run of Mill Creek to the confluence of Mill Creek and Joes Slough, thence in a general northerly direction with the run of Joes Slough to its intersection with the northern right-of-way of State Road 1432, thence approximately north, north easterly direction approximately 3970 feet to a point on the western right-of-way of State Road 1430 at its intersection with Davis Creek, thence in a general easterly direction with the run of Davis Creek to its confluence with the Cape Fear River, thence in a general southeast direction with the Cape Fear River to its confluence with the Brunswick River, thence in a general southerly direction with the run of the Brunswick River to a point of the confluence of the Brunswick River and Sturgeon Creek, said point being the point of beginning."

Sec. 3. The Board of Commissioners of the Town of Navassa shall consist of five members. The mayor of the town shall be elected for a term of two years, and the members of the board shall be elected as herein provided for staggered terms of four years.

Sec. 4. Beginning with the regular municipal election to be held in Navassa in 1977, the three candidates for town commissioner receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of each member expire, their successors shall be elected for terms of four years.

Sec. 5. The municipal elections shall be nonpartisan and decided by a simple plurality, and shall be held and conducted by the Brunswick County Board of Elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

Sec. 6. The officers elected under this act shall take office on the first Monday in December following their election and qualify by taking the oath of office. The board of commissioners shall hold a regular meeting at least once a month and shall fix the time and place of its regular meetings.

Sec. 7. Until the initial election to be held in November 1977, the following persons are appointed as members of the town board of commissioners: Louis Brown, Walter Williams, O'Glatha Myers, Thomas

Merrick, and William Mosley. Louis Brown is hereby appointed acting mayor of the town and shall have the right to vote on all matters before the board. The persons appointed herein shall serve until the first Monday in December 1977, and until their successors are elected and qualified.

Sec. 8. The county board of elections of Brunswick County shall hold a special election in the area defined in Section 2 of this act, and submit to the qualified voters therein the question whether the area shall be incorporated as the Town of Navassa. The question on the ballot shall be as follows:

FOR incorporation of the Town of Navassa.

AGAINST incorporation of the Town of Navassa.

If a majority of those voting vote in favor of incorporation of the Town of Navassa, then Sections 1 through 7 of this act shall become effective upon the certification of the results by the county board of elections, a copy of the certification shall be filed with the clerk of superior court of the county and with the Secretary of State.

If a majority of the votes cast be against incorporation of the Town of Navassa, then Sections 1 through 7 of this act shall be null and void.

The special election shall be held by the county board of elections within 60 days after the ratification of this act, and said election shall be held and conducted in accordance with the applicable provisions of Chapter 163 of the General Statutes of North Carolina. The board of county commissioners shall pay the expense of holding the special election.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 46 CHAPTER 78

AN ACT TO REVISE, CONSOLIDATE AND RESTATE THE CHARTER OF THE CITY OF CONOVER AND TO REPEAL ALL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1.

"THE RESTATED CHARTER OF THE CITY OF CONOVER

"CHAPTER I. ORGANIZATION AND CORPORATE POWERS

"Section 1.01. Incorporation and corporate powers. The City of Conover shall continue to be a body politic and corporate by the name of 'City of Conover'. Under this name, the city shall continue to be vested with all the property rights which now belong to the corporation; shall have perpetual succession; may sue or be sued; may contract and be contracted with; may acquire such property, real and personal, in any manner acquired by it, and from time to time may hold, invest, sell or dispose of the same; may have a common seal and alter and renew the same at will and shall have and may exercise in conformity with this Charter all the powers, duties, rights, functions, privileges and immunities and municipal powers of every name and nature whatsoever.

"Section 1.02. Exercise of power. All duties, powers, functions, rights, privileges and immunities of the city, its officers, agencies, or employees, shall be carried into execution as provided by this Charter or, if this Charter makes no provision, as provided by ordinance or resolution of the city council, and as provided by the general laws of North Carolina. In addition to the powers

enumerated herein or those appropriate to the exercise of such powers, the City of Conover shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina, and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"CHAPTER II. MUNICIPAL CORPORATE BOUNDARIES

"Section 2.01. Existing city limits. (a) The corporate boundaries of the city shall be those existing at the time of ratification of this restated Charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of the City of Conover are set out on a map entitled 'Map of Conover City Limits'. The map is maintained in the office of the city clerk, as required by G.S. 160A-22. Reproduced copies of the official map or description of the corporate boundaries of the city, certified by the city clerk shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description.

(b) When required from time to time, the city council may provide for the redrawing of the official map or the rewriting of the official description. A redrawn map and rewritten description shall supersede for all purposes the earlier map and description which are respectively replaced.

"Section 2.02. Extension of corporate boundaries. All extensions of the corporate boundaries shall be governed by the general laws of North Carolina.

"Section 2.03. Electoral district boundaries. The City of Conover comprises one electoral district and the one electoral district is set out and is the same as the official 'Map of Conover City Limits' as required by G.S. 160A-23.

"CHAPTER III. MAYOR AND CITY COUNCILMEN

"SUBCHAPTER A

"Section 3.01. Plan generally. The method of government provided for in this Charter for the City of Conover shall be known as 'council-manager' as required by G.S. 160A, Article 7, Part 2.

"Section 3.02. Governing body. The government and general management of the city shall be vested in the city council and shall exercise its powers in the manner as provided herein and in Chapter 160A, Article 5 of the General Statutes of North Carolina set forth, except the city manager shall have the authority hereinafter specified: The mayor shall preside at all meetings of the council and shall have the same power and responsibility as other members of the city council to vote on all matters coming before the council. In the event of a tie vote, including the mayor's vote, he shall have no additional vote.

"Section 3.03. Composition, election, qualifications, compensation of the city council. The city council shall consist of six members; a mayor and five councilmen, who shall be elected at large by and from the qualified voters of the city in the manner as provided by Chapter IV of this Charter. Qualification for office and compensation of the city council shall be as required by the general laws of North Carolina.

"SUBCHAPTER B. ORGANIZATION AND PROCEDURES

"Section 3.21. Organizational meeting. The organizational meeting of the council shall be held on the date and at the time of the first regular meeting in December. The newly elected mayor and city council, whose terms of office shall begin after the old business of the council is concluded, shall severally qualify by taking the oath of office prescribed in Article VI, Section 7 of the

North Carolina Constitution before the city clerk or other person authorized by law to do so.

"Section 3.22. Procedures of the city council. Except where otherwise provided herein, the general law provisions of the North Carolina General Statutes as applied to the city council regular and special meetings, voting requirements, vacancies of elected officials, oaths of office and ordinance procedures shall be provided as required by the general law of North Carolina.

"Section 3.23. Meetings of the city council. The city council shall fix the time for its regular meeting, which shall be as often as once monthly. A special meeting may be called as provided by G.S. 160A-71. All meetings of the council shall be held at the City Hall, unless the council decides otherwise. The council shall hold meetings at any location inside or outside the city as permitted by general law.

The council may adopt rules of procedure for the conduct of regular, special, adjourned and continued meetings; otherwise Roberts Rules of Order shall apply.

The council may continue any public hearing without further advertisement. If a quorum is not present at the time fixed for such hearing, it shall automatically be continued to the next regular council meeting.

"Section 3.41. Salaries of mayor and council. Compensation of elected officials shall be fixed as provided by the general laws of North Carolina.

"SUBCHAPTER C. CITY MANAGER

"Section 3.42. The city manager appointed. The city council shall appoint a city manager, who shall be administrative head and chief executive officer of the city government and shall be responsible for the administration of all departments. He shall be appointed and have those duties as outlined in G.S. 160A, Article 7, Part 2. He shall be appointed with regard to merit only and need not be a resident of the city when appointed. He shall hold office during the pleasure of the city council, and he shall receive such compensation as the city council shall fix.

"Section 3.43. Appointment and removal of officers. Such city officers and employees as the council shall determine are necessary for the proper administration of the city shall be appointed by the city manager, and any such officer or employee may be removed by him, but the city manager shall report the appointment and removal of officers and department heads to the council at the next meeting thereof following any such appointment or removal. The city manager shall appoint all officers with the exception of the city attorney and the tax collector.

"SUBCHAPTER D. COUNCIL POWERS AND DUTIES

"Section 3.61. Exercise of powers. (a) The city council shall direct the exercise of all of the powers of the city, except as otherwise provided by the Charter.

(b) In addition to other powers conferred upon it by law, the council may adopt and provide for the execution of such ordinances, rules and regulations, not inconsistent with this Charter, as may be necessary or appropriate for the preservation of the comfort, convenience, security, good order, better government or general welfare of the city or its inhabitants; may enforce the same by imposing penalties for violations; and may compel the performance of the duties imposed upon others by suitable penalties.

"SUBCHAPTER E. MAYOR AND MAYOR PRO TEM

"Section 3.81. Powers and duties of mayor. (a) The powers and duties of the mayor shall be such as are conferred upon him by this Charter and by general law, together with such others as may be conferred by the council pursuant to law.

(b) The mayor shall preside at all meetings of the council.

"Section 3.82. Mayor pro tem. The mayor pro tem shall exercise those powers in the absence or disability of the mayor as provided in G.S. 160A-70, Article 5.

"SUBCHAPTER F. PERSONNEL

"Section 3.101. Compensation. The council shall approve the schedule of pay, expense allowances and other compensation of all city employees and may adopt position classification and pay plans. The council may purchase life insurance and health insurance for the benefit of all or any class of city employees as a part of their compensation, and may provide other fringe benefits for city employees.

"Section 3.102. Retirement benefits. The council may provide for enrolling city employees in the Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Relief Fund, the Firemen's Pension Fund, or a retirement plan offered by any reputable insurance company subject to regulation by the Commissioner of Insurance, and may make payments into any such retirement system or plan on behalf of its employees. The city may also supplement from local funds benefits provided by the Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Relief Fund, or the Firemen's Pension Fund.

"Section 3.103. Personnel rules. The council may adopt or provide for rules and regulations or ordinances concerning but not limited to annual leave, sick leave, special leave with full pay or with partial pay supplementing workmen's compensation payments for employees injured in accidents arising out of and in the course of employment, hours of employment, holidays, working conditions, service award and incentive award programs, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent and honest career employees. The city manager shall set up an administrative review board to review employee grievances.

"Section 3.104. Participation in Social Security Act. The council may take any action necessary to allow city employees to participate fully in benefits provided by the federal Social Security Act.

"Section 3.105. Defense of employees and officers. Upon request made by or in behalf of any employee or officer, or former employee or officer, the council, in its discretion, may provide for the defense of any civil or criminal action or proceeding brought against such employee or officer either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his employment or duty as an employee or officer of the city. The defense may be provided by the city by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense.

"SUBCHAPTER G. CITY CLERK

"Section 3.121. Appointment and duties. The city clerk shall be appointed by and shall serve at the pleasure of the city manager. The city clerk shall give notice of meetings of the council, keep a journal of the proceedings of the council, be custodian of all city records entrusted to the city clerk, and shall

perform any other duties that may be required by law, by the council or by the city manager. In addition, the city manager may appoint or provide for one or more deputy city clerks who shall have full authority to exercise and perform any of the powers and duties of the city clerk that may be specified by the council or by general law.

"SUBCHAPTER H. CITY ATTORNEY

"Section 3.141. Appointment and duties. The council shall appoint a city attorney to serve at its pleasure, and shall prescribe his duties and fix his rate of compensation. Compensation for the city attorney shall be included in the annual budget.

"SUBCHAPTER I. TAX COLLECTOR

"Section 3.161. Appointment and duties. The council shall appoint a tax collector as provided by the General Statutes of North Carolina and upon the recommendation of the city manager. The tax collector's duties shall be as required by N.C.G.S. Chapter 105.

"SUBCHAPTER J. MISCELLANEOUS

"Section 3.181. Official bonds. The officers and employees of the city, both elective and appointive shall execute such official bonds in such amounts and upon such terms and conditions as the council may from time to time require. The city may purchase and pay the premium for such bonds if it elects to do so. The city shall provide and pay the premiums of those bonds as required by general law.

"Section 3.182. Oaths of certain officers and employees. Before entering upon the discharge of their duties, the holders of the following offices and positions shall be required to take and subscribe before the city clerk or some other officer authorized to administer oaths in such cases the oath prescribed for public officers that they will faithfully and impartially discharge the duties of their respective offices or positions according to law: city clerk, chief of police and each member of the police force, tax collector and assistant tax collector, and each building inspector empowered to enforce the building code, fire chief and each member of the fire department. All such oaths shall be filed with the city clerk.

"SUBCHAPTER K. FINANCES AND FISCAL MATTERS

"Section 3.1001. General authority to levy and collect taxes. To raise revenue for defraying expenses incident to the proper government of the city, the council may, except as otherwise provided by law, levy and collect (1) a tax on real and personal property and on all other property subject to taxation as provided by General Statutes Chapter 105; (2) a tax on all trades, occupations, professions, businesses and franchises carried on within the city; and (3) any other taxes authorized by general law, by local act of the General Assembly or by a vote of the citizens of the municipality. The power to impose the tax shall include the power to impose reasonable penalties for failure to declare tax liability, if required, or to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law as provided in the North Carolina General Statutes. The power to impose the tax shall also include the power to provide for its administration in the manner not inconsistent with the statute authorizing the tax.

"SUBCHAPTER L. PROCUREMENT AND PROPERTY MANAGEMENT

"ARTICLE 1. CONTRACTING, PURCHASING AND PROPERTY

"Section 3.1021. Contract procedures. All contracts, except as otherwise provided for in this Charter, or by law, shall be authorized and approved by the council and reduced to writing in order to be binding upon the city. All contracts and all ordinances or resolutions authorizing the same shall be drawn by or approved by the city attorney before any contract is executed by the city. No construction or repair work or purchase of apparatus, supplies, materials or equipment, except in cases of emergency involving the health and safety of the people or their property, shall be performed, nor shall any contract be made or awarded therefor, unless compliance is made with the provisions of Article VIII, Chapter 143 of the General Statutes of North Carolina, or as the same may hereafter be amended, except that:

(a) The provisions of said Article VIII requiring the public advertisement for bids, the taking of formal bids, and the awarding of contracts pursuant thereto shall not apply to the city in connection with the purchase of apparatus, supplies, materials or equipment requiring an estimated expenditure of public funds in an amount of seven thousand five hundred dollars ($7,500.00) or less. In all respects not provided for by this Charter, formal requirements concerning the making and execution of contracts by the city shall be governed by general law.

"ARTICLE 2. SALE AND DISPOSITION OF PROPERTY

"Section 3.1022. Sale, lease, exchange and joint use of property by the city shall be as provided by general law.

"Section 3.1023. Grant of easements. The city shall have authority without complying with the provisions of this Article to grant easements over, through, under, or across any city property or the right-of-way of any public street or alley that is not a part of the State highway system. Easements in a street or alley right-of-way shall not be granted if the easement would substantially impair or hinder the use of the street or alley as a way of passage. A grant of air rights over a street right-of-way or other property owned by the city for the purpose of erecting a building or other permanent structure (other than utility wires or pipes) shall be treated as a sale of real property, except that a grant of air rights over a street right-of-way for the purpose of constructing a bridge or passageway between existing buildings on opposite sides of the street shall be treated as the grant of an easement.

"Section 3.1024. Warranty deeds. The city is authorized to execute and deliver deeds to any real property with full covenants of warranty, without regard to how the property was acquired, when, in the opinion of the city council, it is in the best interest of the city to convey by warranty deed. Members of the city council are hereby relieved of any personal or individual liability by reason of the execution of warranty deeds to city-owned property unless they act in fraud, malice, or bad faith.

"Section 3.1025. Conflict of interest. The procedures of the general laws of North Carolina shall apply as the same may hereafter be amended except that a violation of the general laws of North Carolina with the knowledge express or implied of the person or corporation contracting with or making a sale to the city shall render the contract void.

"CHAPTER IV. ELECTIONS

"Section 4.01. Conduct of city elections. All elections for mayor and council shall be held on a nonpartisan basis and the results determined by plurality as

provided in G.S. 163-279(a)(1). The term of office of the mayor shall be two years. The terms of office of councilmen shall be four years. At the regular election in November, 1977, and quadrennially thereafter, two councilmen shall be elected. At the regular election in November, 1979, and quadrennially thereafter, three councilmen shall be elected. The elections for the City of Conover shall be held and conducted pursuant to the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina.

"CHAPTER V. REGULATORY AND PLANNING FUNCTIONS

"SUBCHAPTER A. ADMINISTRATION OF JUSTICE

"Section 5.01. Rewards for conviction of certain offenses. The council may offer and pay rewards for the conviction of any person or persons alleged to have committed criminal offenses which, in the judgment of the council, involve serious danger to the public peace or public safety. The council shall fix the terms, conditions and amounts of such rewards. Rewards shall be paid only by order of the council from revenues of the city; and the council shall, in its discretion, determine who shall be entitled to the collection of any reward. In addition, the city council may allocate funds by approval of the annual budget for the payment of informant fees concerning such criminal offenses.

"SUBCHAPTER B. OCCUPATIONAL AND BUSINESS LICENSING AND REGULATION

"Section 5.21. Power to regulate occupations and business. The council is authorized to regulate or to license any occupations, businesses, trades or forms of amusement or entertainment in the interest of public health, welfare, order or safety and to prohibit such as may be inimical to the public health, welfare, order or safety.

"SUBCHAPTER C. PLANNING, ZONING, BUILDING REGULATIONS AND RELATED MEASURES

"ARTICLE 1. IN GENERAL

"Section 5.41. Authority. For the purpose of promoting the orderly growth, expansion and development of the city and the surrounding area hereinafter defined, and for the purpose of promoting the health, safety, morals and welfare of the citizens of such area, the council is hereby authorized to exercise any planning, zoning, subdivision and building regulation powers now or hereafter conferred upon the city and vested in the council by its Charter, the General Statutes, or any other law applicable to the city, not only within the corporate limits of the city but also within the territory beyond the corporate limits, as now or hereafter fixed, for a distance of one mile in all directions as provided by general law. Any ordinance intended to be applicable beyond the corporate limits of the city shall so provide. Such powers shall include the power to adopt such ordinances and regulations as may be considered necessary and expedient by the council to regulate, require and control the development of land and construction of buildings in the area.

The powers herein granted to the city are intended to be supplementary to any powers now or hereafter conferred upon it. The exercise of powers herein granted shall be within the discretion of the council.

"Section 5.42. Subdivision control. The city council is hereby authorized to enact an ordinance regulating the planning and recording of any subdivision of land lying within the city or within one mile in any direction of the corporate limits. No subdivision plat shall be filed or recorded until it shall have been

submitted to and approved by the city acting by or through such board or agency thereof as is designated by ordinance adopted by the council and such approval entered in writing on the plat by the official or officials designated by such ordinance.

"Section 5.43. Authority to require installation of improvements prior to plat approval. In connection with subdivision or platting controls, the council may require the improvement and grading of streets and the construction and installation of street pavement, curbs, gutters, sidewalks, and water, sewer, surface water drainage, and other utility mains, according to approved engineering plans and street profiles, as a condition precedent to the approval of the plat. The requirement may provide for tentative approval of the plat prior to such improvement and installation; but any such tentative approval shall not be entered on the plat. The requirements may provide that in lieu of completion of the work and installations prior to final approval of a plat, the council may accept a bond, in an amount and with surety and condition satisfactory to it, providing for and securing to the city the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the bond. The city is empowered to enforce the bond by all appropriate legal and equitable remedies. Requirements adopted under this ordinance may be applied throughout the area over which the city is authorized by law to exercise platting or subdivision controls.

"Section 5.44. Fire limits. The council may establish fire limits in the city with such boundaries as it may determine. The council may also prohibit construction of wooden buildings and may prescribe by general rules or specific permits the kinds of buildings which may be erected therein. It may also provide for the inspection of all structures now or herafter erected and condemn any of them which are unsafe or dangerous to life or limb by reason of their defective construction or dilapidation. In addition the council may require the owner or owners to remove or to repair within thirty (30) days any structure which has been so condemned. If the owner or owners shall neglect or refuse to remove or to repair the same for a period of thirty (30) days after notice, the council shall then have the power to remove such structure at the expense of the owner or owners. Any cost which the city may sustain shall be a lien on the premises.

"Section 5.45. Power to destroy property to stop fires. The mayor, the city manager, a member of the council, or the chief of the fire department may order the blowing up, tearing down or other destruction of any building when it is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for acting in obedience to orders thus given, nor shall the city, the mayor, the manager, the council or the fire chief be held liable, civilly or criminally, for the giving of such orders or for damages to property ordered destroyed.

"Section 5.46. Regulation of buildings in flood plains. The city may regulate and prohibit the construction upon property subject to periodic surface flooding of any buildings or structures designed, intended or capable of being used for human habitation.

"SUBCHAPTER D. UTILITY REGULATIONS

"Section 5.61. Public utility franchises. The council may grant franchises for any public utility in the manner provided by law, and, in its discretion and in

accordance with the general law, may hold a referendum at the expense of the applicant on the question of granting a franchise.

"SUBCHAPTER E. VEHICLES AND TRAFFIC

"Section 5.81. Council to adopt regulations. (a) Subject to the provisions of subsection (b) of this section, the council may adopt ordinances regulating the speeds of vehicles upon any city streets and may establish truck routes (or other required routes for limited classes of vehicles or traffic) applicable to any city street. As used in this section, the term 'city streets' includes all public highways, roads and streets within the city limits, including numbered State highways, and highways, roads and streets maintained, repaired, constructed, reconstructed or widened in whole or in part with State funds.

(b) An ordinance concerning vehicle speeds, truck routes or other required routes that applies to numbered State highways shall become effective only as provided in this subsection. The council shall transmit to the North Carolina Department of Transportation by registered mail a copy of the ordinance upon its adoption, and the ordinance shall become effective, if not disapproved by the commission, within thirty (30) days following the next regular meeting of the commission after the commission has received a copy of the ordinance.

(c) The authority herein granted to the council shall be in addition to any authority conferred by general law upon the city to regulate vehicles, traffic or the use of city streets.

(d) The council shall have authority to provide for the towing and impounding of vehicles unlawfully parked on city streets and on other public places.

"Section 5.82. Power to regulate obstruction of alleys. If, in the opinion of the council, a fire hazard is created by the obstruction of private alleys, the council may adopt regulations governing the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise, but such regulations shall not be construed as so to restrict or limit the legal right of the owners of interests in a private alley to close the alley or to exercise other property rights therein.

"Section 5.83. Off-street parking facilities. The city shall have authority to own, lease, acquire, establish, regulate, operate and control off-street parking lots, parking garages, and other facilities for parking motor vehicles, and to make a charge for the use of such facilities. The city shall also have authority to provide for the towing and impounding of vehicles unlawfully parked thereupon and to provide for the punishment of any person convicted of a parking violation by fine or imprisonment or both.

"Section 5.84. Regulation of taxis. The city may by ordinance license and regulate all vehicles operated for hire in the city. The ordinance may require that the drivers and operators of taxicabs engaged in the business of transporting passengers for hire over the public streets shall obtain a license or permit from the city. The city may by ordinance establish standards for the operation and use of all taxis.

"CHAPTER VI. CITY SERVICES AND FACILITIES

"SUBCHAPTER A. ESTABLISHMENT AND MAINTENANCE OF SERVICES AND FACILITIES

"ARTICLE 1. CEMETERIES

"Section 6.01. Authority to establish and operate cemeteries. The city has authority to establish and operate cemeteries as provided in North Carolina

General Statutes 160A, Article 17. The city may by ordinance establish standards for the maintenance and operation of cemeteries.

"ARTICLE 2. UTILITIES

"Section 6.21. Operation of water and sewer systems and other utilities. (a) The city council may:

(1) Provide for the construction or acquisition and operation of utilities and utility systems;

(2) Acquire any real or personal property necessary or incidental thereto, including equipment, machinery, and all manner of rights or interests in or relating to land and water, and appurtenances thereto;

(3) Establish rates of charge for utility services and for the use of utility facilities;

(4) Adopt rules and regulations concerning the management of utilities and utility systems, with regard to such matters as maintenance, operation and improvement thereof or require the pretreatment of waste; and

(5) Adopt rules and regulations concerning charges for utility services.

(b) As used in this Charter, unless the context otherwise requires, the term 'utility' includes water supply, water distribution, sewerage, waste disposal, electric power, natural or manufactured gas and public transportation.

"Section 6.22. Connection by abutting owners. The council may require that within thirty (30) days after a water main or sewer line is completed and made ready for use, the owner of every abutting lot whereon such utility is supplied for any human use shall cause the lot to be connected thereto.

"Section 6.23. Liens for utility charges. In case any charge for utility service or for the use of utility facilities is not paid within ten (10) days after it becomes due, the same shall become a lien upon the real property served or in connection with which the service or facility is used. The charge may at any time thereafter be collected, either by suit in the name of the city or by the city tax collector, through the sale of the property upon which the lien attaches at the Catawba County courthouse door, after advertising the sale once a week for four successive weeks in some newspaper published in the area which is qualified to carry legal ads. The sale shall be made under the same rules and regulations, and subject to the same costs and penalties and to the same rights of redemption as are provided by law for the foreclosure of the lien on real estate for taxes.

"Section 6.24. Deposits. In addition to other remedies now provided for the collection of any charge for utility service or the use of utility facilities and as a part of the cost of such utility service, a deposit by an owner or tenant of the premises to be served shall be required. The deposits may vary according to the type of service. The utility service charge, if not paid within the time designated, may be deducted from the deposit and utility service may be cut off and not be turned on again until the balance of the deposit is increased to the original amount thereof. In order that the utility of the city may be protected and that the costs of services shall be paid by the person receiving such services, an owner or tenant may give notice that the premises have been or will be vacated and in the event that all charges due are paid he shall be entitled to the return of his deposit. In the event the owner or tenant shall vacate the premises without notifying the city and having the utility cut off, he shall forfeit to the city any balance of such deposit remaining after the utility service charge due has been deducted. Such forfeited money may be used by the city for the payment of principal or interest on the bonded indebtedness of the city incurred

for the utility involved or the money may be used for the maintenance or extension of the utility service involved.

"Section 6.25. Penalty for using utility service after discontinuance. If pursuant to any rule or regulation utility service to any property is discontinued, the council may provide that it shall be unlawful for any person, firm or corporation without the approval of the city manager to renew a utility service or to use it without having first paid any outstanding charges and may further provide that any violation of this Article shall constitute a misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than thirty (30) days or both.

"Section 6.26. Dedication of water and sewer lines. Before any person, firm or corporation may connect any privately owned water or sewer line with any water or sewer line of the city, the person, firm or corporation in consideration of making the connection and the benefits to be derived therefrom shall, by proper written instrument, convey the water or sewer line to the city. No connection may be made with the city's water or sewer lines without the express approval of the city, nor may any connection be effected except in accordance with its applicable regulations. If any person, firm or corporation connects any privately owned water or sewer line without first dedicating and conveying it to the city, the act of connecting shall be considered a conveyance of the line to the city and the city may accept it or may order that it be disconnected. The city may contract with any person, firm or corporation to lay water or sewer lines within or without the city and connect them to the city's system, notwithstanding any provisions of this section.

"SUBCHAPTER B. LOCAL IMPROVEMENTS AND EMINENT DOMAIN

"ARTICLE 1. LOCAL IMPROVEMENTS

"Section 6.41. Authority. The city has all the power and authority granted to counties and municipalities by the general laws of the State with respect to local improvements, such as, but not limited to, grading, regrading, widening, paving and repaving of public streets and alleys; constructing, reconstructing, and altering of sidewalks, curbs, gutters and storm drains in the public streets and alleys; and laying or relaying sanitary sewer and water lines. The authority granted by this Article is in addition to that granted by any other law and with respect to any particular local improvement, the city may exercise any one or more of the alternative powers available to it.

"Section 6.42. Alternative procedures and power. In making special assessments the city may employ the following procedures:

(a) Upon receipt of a petition from one or more owners of abutting property where fifty percent (50%) or more of the total street frontage is in one ownership, the council may order the making of any local improvement. The council may assess the cost thereof against the abutting property in the same manner and following the same procedures set out in the general laws of the State for making special assessments against property benefited by local improvements.

(b) The council may order the making of any local improvement and assess the cost thereof, except the city's portion, if any, against only a limited number of abutting properties if the owners of those properties submit a petition asking that the improvement be made and that the total amount to be assessed for the improvement be assessed only against their properties.

(c) If, in the council's judgment, which shall be conclusive, the abutting property to be assessed will be benefited in an amount at least equal to the assessment, no petition for local improvements shall be necessary and the council may order the making of any such local improvement and assess the cost thereof against abutting property owners in the following cases:

(1) When any street or part of a street is unsafe; or the improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or the improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, with a paved highway; or the improvement of a street or part of a street is necessary to provide a paved approach to a railroad, street grade separation or a bridge; or the widening of any street or part of a street is necessary to accommodate present and anticipated volumes of traffic.

(2) When any street or part of a street, or any property, is without storm sewer or other surface drainage improvements, and storm sewer or other surface drainage should be provided in the public interest.

(3) When any street or part of a street is without sidewalks and sidewalks should be provided in the public interest.

(d) If the council determines that the public interest requires repair of a sidewalk or portion of a driveway within the public right of way, the council may order the making of the repair and assess the total cost against the property abutting the sidewalk or driveway repaired. Before an assessment may be made for the repair, at least thirty (30) days' written notice shall be given to the abutting property owner personally or by registered or certified mail to his last known address or his address as shown on the tax records. The notice shall state that he is required to make the repair at his own expense in conformity with the sidewalk standards adopted by the city, and that if he shall fail to make the repair within thirty (30) days after notice is served the city thereupon may make the repair and assess the cost. If the council finds that any sidewalk or driveway is in need of immediate repair, the council may adopt a resolution setting out its finding and directing that the repair be made immediately and that the cost be assessed against the abutting property without prior notice to the property owner affected.

(e) The council may provide for special assessment exemptions for corner lots. Exemptions for corner lots may apply to only one side of each lot and the amount of the exemption may not exceed seventy-five percent (75%) of the frontage of that side. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

(f) Any property owner has the option of paying assessments for local improvements in cash or in installments. In the resolution ordering the improvements, the council shall determine the number of equal annual installments, which shall be not less than two nor more than ten. The council may direct that (1) installments shall become due and payable on the same date when property taxes are due and payable, or (2) the first installment with interest shall become due and payable sixty (60) days after the date of the confirmation of the assessment roll, and one subsequent installment with

interest shall be due and payable on the same day of the month in each successive year until the assessment is paid in full.

"Section 6.43. Planting strip and driveway maintenance. It is the responsibility of the abutting property owner to maintain any property or driveway between the property line and the curb of a paved street.

"Section 6.44. Exchange of property. In connection with street widening, the city may purchase property immediately adjacent to property located on a street corner and convey the inside property to the owner of the corner property in exchange for property needed for street widening.

"ARTICLE 2. EMINENT DOMAIN

"Section 6.61. Institution of action and deposit. In case condemnation shall become necessary the city shall institute a civil action by filing in the General Court of Justice a complaint declaring that such land, easement or interest therein is thereby taken for the use of the city. Said complaint shall contain or have attached thereto the following:

(1) A statement of the authority under which the public use for which said land is taken.

(2) A description of the entire tract or tracts affected by said taking sufficient for the identification thereof.

(3) A statement of the estate or interest in said land taken for public use and a description of the area taken sufficient for the identification thereof.

(4) The names and addresses of those persons who, the city is informed and believes, may have or claim to have an interest in said lands, so far as the same can by reasonable diligence be ascertained; and if any such persons are infants, non compos mentis, under any other disability, or their whereabouts or names unknown, it must be so stated.

(5) A statement as to such liens or other encumbrances as the city is informed and believes are encumbrances upon said real estate and can by reasonable diligence be ascertained.

(6) A prayer that there be a determination of just compensation in accordance with the provisions of this Article.

The filing of said complaint shall be accompanied by a deposit of the sum of money estimated by said city to be just compensation for said taking and upon the filing of said complaint and deposit of said sum, summons shall be issued and together with a copy of said complaint and notice of deposit is served upon the person named therein in the manner now provided for the service of process in civil actions. The city may amend the complaint, may increase the amount of its deposit with the court at any time while the proceeding is pending and the owner shall have the same rights of withdrawal of this additional amount as set forth in Section 6.63 of this Article.

"Section 6.62. Vesting of title and right of possession; recording memorandum or supplemental memorandum of action. Upon the filing of a complaint and deposit in court, to the use of the person entitled thereto, of the amount of the estimated compensation stated in the notice of deposit, title to said land or such other interest therein specified in the complaint, together with the right to immediate possession thereof, shall vest in the city and the judge shall enter such orders in the cause as may be required to place the city in possession. Said land shall be deemed to be condemned and taken for the use of the city and the right to just compensation therefor shall vest in the person owning said property or any compensable interest therein at the time of the filing of the

complaint and deposit of the money in court; and compensation shall be determined and awarded in said action and established by judgment therein.

At the time of the filing of the complaint and deposit of estimated compensation, the city shall record a memorandum of action with the Register of Deeds and said memorandum shall be recorded among the land records of Catawba County. Upon the amending of any complaint affecting the property taken, the city shall record a supplemental memorandum of action. The memorandum of action shall contain:

(1) The names of those persons who the city is informed and believes may have or claim to have an interest in said lands and who are parties to said action;

(2) A description of the entire tract or tracts affected by said taking sufficient for the identification thereof;

(3) A statement of the estate or interest in said land taken for public use; and

(4) The date of institution of said action and such other reference thereto as may be necessary for the identification of said action.

"Section 6.63. Disbursement of deposit. A person named in the complaint may apply to the court for disbursement of the money deposited in the court, or any part thereof, as full compensation, or as a credit against just compensation without prejudice to further proceedings in the cause to determine just compensation. Upon such application, the judge shall, unless there is a dispute as to title, order that the money deposited be paid forthwith to the person entitled thereto in accordance with the application. The judge shall have power to make such orders with respect to encumbrances, liens, rents, taxes, assessments, insurance and other charges, if any, as shall be just and equitable.

No notice to the city of the hearing upon the application for disbursement of deposit shall be necessary, but a copy of the order disbursing the deposit shall be served upon the city manager.

"Section 6.64. Answer, reply and plat. Any person whose property has been taken by the city by the filing of a complaint and deposit of estimated compensation may within the time hereinafter set forth file an answer to the complaint praying for a determination of just compensation. Said answer shall, in addition, contain the following:

(1) Such admissions or denials of the allegations of the complaint as are appropriate.

(2) The names and addresses of the persons filing said answer, together with a statement as to their interest in the property taken.

(3) Such affirmative defenses or matters as are pertinent to the action.

A copy of the answer shall be served on the city manager, or such other process agent as may be designated by the council, provided that failure to serve the answer shall not deprive the answer of its validity. The affirmative allegations of said answer shall be deemed denied. The city may, however, file a reply within thirty (30) days from receipt of a copy of the answer.

The city, within ninety (90) days from the receipt of the answer shall file in the cause a plat of the land taken and such additional area as may be necessary to properly determine the damages, and a copy thereof shall be mailed to the parties or their attorney.

"Section 6.65. Time for filing answer. Any person named in and served with a complaint shall have four (4) months from the date of service thereof to file answer. Failure to answer within said time shall constitute an admission that

the amount deposited is just compensation and shall be a waiver of any further proceeding to determine just compensation; in such event the judge shall enter final judgment in the amount deposited and order disbursement of the money deposited to the owner. For good cause shown and upon notice to city the judge may within the initial four months' period extend the time for filing answer for a period not to exceed an additional two (2) months.

"Section 6.66. Determination of issues other than damages. After the filing of the plat, the judge, upon motion and ten (10) days' notice by either the city or the owner, shall, either in or out of term, hear and determine any and all issues raised by the pleadings other than the issue of damages, including, but not limited to, if controverted, questions of necessary and proper parties, title to the land, interest taken, correctness of the map, and area taken.

"Section 6.67. Appointment of commissioners. Upon request of the owner in the answer, or upon motion filed by either the city or the owner within sixty (60) days after the filing of answer, the Clerk of Superior Court shall appoint, after the determination of other issues as provided by Section 6.66 of this Article, three competent, disinterested freeholders residing in the county to go upon the property and under oath appraise the damage to the land sustained by reason of the taking and report same to the court within a time certain. If no request or motion is made for the appointment of commissioners within the time permitted, the cause shall be transferred to the civil issue docket for trial at term as to the issue of just compensation.

Such commissioners, if appointed, shall have the power to make such inspection of the property, hold such hearings, swear such witnesses, and take such evidence as they may, in their discretion, deem necessary, and shall file with the court a report of their determination of the damages sustained.

A copy of the report shall at the time of filing be mailed to each of the parties. Within thirty (30) days after filing the report, either the city or the owner may except thereto and demand a trial de novo by a jury as to the issue of damages. Whereupon the action shall be placed on the civil issue docket of the appropriate division of the General Court of Justice for trial de novo by a jury at term as to the issue of damages, provided, that upon agreement of both parties trial by jury may be waived and the issue determined by the judge. The report of commissioners shall not be competent as evidence upon the trial of the issue of damages in the General Court of Justice, nor shall evidence of the deposit by the city into the court be competent upon the trial of the issue of damages. If no exception to the report of commissioners is filed within the time prescribed, final judgment shall be entered by the judge upon a determination and finding by him that the report of commissioners, plus interest computed in accordance with Section 6.71 of this Article, awards to the property owners compensation. In the event that the judge in his discretion determines that such award does not prove just compensation he shall set aside award and order the case placed on the civil issue docket for determination of the issue of damages by a jury.

"Section 6.68. Parties; order; continuances. The judge may appoint some competent attorney to appear for and to protect the rights of any party or parties in interest who are unknown, or whose residence is unknown and who has not appeared in the proceedings by an attorney or agent. The judge shall appoint guardians ad litem for such persons as are minors, incompetents, or other parties who may be under a disability and without general guardian, and

the judge shall have the authority to make such additional parties as are necessary to the complete determination of the proceeding and enter such other orders either in law or equity as may be necessary to carry out the provisions of this Article.

Upon the coming on of the cause for hearing pursuant to Section 6.66 or upon the coming on of the cause for trial, the judge, in order that the material ends of justice may be served, upon his own motion, or upon motion of any of the parties thereto and upon proper showing that the effect of condemnation upon the subject property cannot presently be determined, may, in his discretion, continue the cause until the project under which the appropriation occurred is completed or until such earlier time as, in the opinion of the judge, the effect of condemnation upon said property may be determined.

"Section 6.69. Remedy where no complaint filed; recording memorandum of action. Any person whose land or compensable interest therein has been taken by an intentional or unintentional act or omission of the city and no complaint has been filed by the city may, within twenty-four (24) months from the date of said taking, file a complaint in the General Court of Justice setting forth the names and places of residence of the parties, so far as the same can by reasonable diligence be ascertained, who own or have, or claim to own or have, estates or interests in the said real estate and if such persons are under a legal disability, it must be so stated, together with a statement as to any encumbrances on said real estate; said complaint shall further allege with particularity the facts which constitute said taking together with the dates that they allegedly occurred; said complaint shall describe the property allegedly owned by said parties and shall describe the area and interests allegedly taken. Upon the filing of said complaint, summons shall be issued together with a copy of said complaint and be served on the city manager. The allegations of said complaint shall be deemed denied; however, the city within sixty (60) days of service of summons and complaint may file answer thereto, and if said taking is admitted by the city, it shall, at the time of filing answer, deposit with the court the estimated amount of compensation for said taking and notice of said deposit shall be given to said owner. Said owner may apply for disbursement of said deposit and disbursement shall be made in accordance with the applicable provisions of Section 6.63 of this Article. If a taking is admitted, the city shall, within ninety (90) days of the filing of the answer to the complaint, file a map or plat of the land taken. The procedure hereinbefore set out shall be followed for the purpose of determining all matters raised by the pleadings and the determination of just compensation.

The plaintiff at the time of filing of the complaint shall record a memorandum of action with the Register of Deeds and it shall be recorded among the land records of Catawba County. The memorandum of action shall contain:

(1) The names of those persons who the plaintiff is informed and believes may have or claim to have an interest in said lands and who are parties to said action;

(2) A description of the entire tract or tracts affected by the alleged taking sufficient for the identification thereof;

(3) A statement of the estate or interest in said land allegedly taken for public use; and

(4) The date on which plaintiff alleges the taking occurred, the date on which said action was instituted, and such other reference thereto as may be necessary for the identification of said action.

"Section 6.70. Measure of damages. The following shall be the measure of damages to be followed by the commissioners, jury or judge who determines the issue of damages:

(1) Where only a part of a tract is taken, the measure of damages for said taking shall be the difference between the fair market value of the entire tract immediately prior to said taking and the fair market value of the remainder immediately after said taking, with consideration being given to any special or general benefits resulting from the utilization of the part taken for public purposes.

(2) When the entire tract is taken, the measure of damages of said taking shall be the fair market value of the property at the time of taking.

"Section 6.71. Interest as a part of just compensation. To said amount awarded as damages by the commissioners or a judge or jury, the judge shall, as a part of just compensation, add interest at the rate of six percent (6%) per annum on said amount from the date of taking to the date of judgment; but interest shall not be allowed from the date of deposit on so much thereof as shall have been paid into court as provided in this Article.

"Section 6.72. Additional rules. In all cases of procedure under this Article where the mode or manner of conducting the action is not expressly provided for in this Article or by the Rules of Civil Procedure in effect in North Carolina or where said Rules of Civil Procedure are inapplicable, the judge before whom such proceeding may be pending shall have the power to make all necessary orders and rules of procedure necessary to carry into effect the object and intent of this Article and the practice in such cases shall conform as nearly as possible to the practice in other civil actions in said courts.

"Section 6.73. Definitions. (1) 'Property' means any right, title, or interest in land, including leases and options to buy or sell. 'Property' also includes rights of access, rights-of-way, easements, water rights, air rights, and any other privilege or appurtenance in or to the possession, use and enjoyment of land.

(2) 'Owner' includes the plural when appropriate and means any person holding a vested estate of inheritance in the property, a tenant for life or for years, tenants by the entirety, the holder of the equity or redemption under a mortgage, and the grantor and third party beneficiary under a deed of trust. Unless otherwise provided, 'owner' does not include persons holding liens, judgments, options, or any other encumbrances of record on the title to the property, or persons holding unvested future interests in the property.

(3) 'Person' includes the plural when appropriate and means a natural person, association, partnership, corporation, the State of North Carolina, the United States of America, a body politic and corporate, and any other legal entity capable of owning or having any interest in property under the laws of North Carolina.

(4) 'Eminent domain' means the power to divest title from the owner of property and vest it in the possessor of the power against the will of the owner upon the payment of just compensation for the right, title, and interest divested.

(5) 'Condemnation' means the procedure prescribed by law for exercising the power of eminent domain.

(6) 'Judge' shall mean the judge of the appropriate division of the General Court of Justice before whom the cause is pending.

"Section 6.74. Final judgments. Final judgments entered in actions instituted under the provisions of this Article shall contain a description of the property affected, together with a description of the property and estate or interest acquired by the city and a copy of said judgment shall be certified to the Register of Deeds and be recorded among the land records of Catawba County.

"Section 6.75. Payment of compensation. If there are adverse and conflicting claimants to the deposit made into the court by the city or the additional amount determined as just compensation, on which final judgment is entered in said action, the judge may direct the full amount determined to be paid into said court by the city, may retain said cause for determination of who is entitled to said moneys, may by further order in the cause direct to whom the same shall be paid and may in his discretion order a reference to ascertain the facts on which such determination and order are to be made.

"Section 6.76. Agreements for entry. The provisions of this Article shall not prevent the city and the owner from entering into a written agreement whereby the owner agrees and consents that the city may enter upon his property without filing a complaint and depositing estimated compensation as herein provided, and the city shall have the same rights under such agreement with the owner in carrying on work on such project as it would have by having filed a complaint and having deposited estimated compensation as provided in this Article.

"Section 6.77. Costs and appeal. The city shall pay all court costs taxed by the court. Either party shall have a right of appeal for errors of law committed in any proceedings provided for in this Article in the same manner as in any other civil actions, and it shall not be necessary that an appeal bond be posted.

"Section 6.78. Entry for surveys. The city without having filed a complaint as provided in this Article is authorized to enter upon any lands and structures upon lands to make surveys, borings, soundings or examinations as may be necessary in carrying out and performing its duties under this Article, and such entry shall not be deemed a trespass, or taking within the meaning of this Article; provided, however, that the city shall make reimbursement for any damage resulting to such land as a result of such activities and the owner, if necessary, shall be entitled to proceed under the provisions of Section 6.67 of this Article to recover for such damage.

"Section 6.79. Refund of deposit. In the event the amount of the final judgment is less than the amount deposited by the city pursuant to the provisions of this Article the city shall be entitled to recover the excess of the amount of the deposit over the amount of the final judgment and court costs incident thereto; provided, however, in the event there are not sufficient funds on deposit to cover said excess the city shall be entitled to a judgment for said sum against the person or persons having received said deposit.

"Section 6.80. Power of eminent domain conferred. In addition to powers conferred by any other general law, local act or this Charter, the city shall possess the power of eminent domain and may acquire by purchase or condemnation any property necessary or useful for the following purposes:

(1) Opening, widening, extending, or improving streets, alleys and sidewalks.

(2) Establishing, extending, enlarging, or improving the following public enterprises:

(a) Electric power generation and transmission distribution systems;
(b) Water supply and distribution systems;
(c) Sewage collection and disposal systems;
(d) Gas distribution systems;
(e) Bus lines and mass transit systems;
(f) Solid waste collection and disposal systems and facilities;
(g) Cable television systems;
(h) Off-street parking facilities;
(i) Airports;
(j) Museums;
(k) Armories;
(l) Parks, playgrounds and other recreational facilities;
(m) Storm sewer and drainage systems and works; and
(n) City halls, fire stations, office buildings and other buildings for use by city.

The power to acquire property by condemnation shall not depend on any prior effort to acquire the same property by grant or purchase, nor shall the power to negotiate for the grant or purchase of property be impaired by initiation of condemnation proceedings for acquisition of the same property.

"Section 6.81. Acquisition of whole parcel or building. When the proposed taking requires condemnation of only a portion of a parcel of land leaving a remainder of such shape, size or condition that it is of little value, the city may acquire the entire parcel by purchase or condemnation. The resolution adopted by the city council for condemnation shall include:

(1) A determination by the council that a partial taking of the land would substantially destroy the economic value or utility of the remainder, or

(2) A determination by the council that an economy in the expenditure of public funds will be promoted by taking the entire parcel, or

(3) A determination by the council that the interest of the public will be best served by acquiring the entire parcel.

Residues acquired under this section may be sold or disposed of in the manner provided for the disposition of city property, or may be exchanged for other property needed by the city.

When the proposed taking requires condemnation of a portion of a building or other structure, the city may acquire the entire building or structure by purchase or condemnation, together with the right to enter upon the surrounding land for the purpose of removing the building or structure. If the entire building is to be included in the property to be condemned, a resolution of condemnation adopted by the council shall include either:

(1) That an economy in the expenditure of public funds will be promoted by acquiring the entire building or structure; or

(2) That it is not feasible to cut off a portion of the building or structure without destroying the whole; or

(3) That the convenience, safety, or improvement of the street or highway will be promoted by acquiring the entire building or structure.

Nothing in this section shall be deemed to compel the city to condemn the underlying fee of the portion of any building or structure that lies outside the right-of-way of any existing or proposed improvement.

"Section 6.82. Fee simple title acquired. Unless otherwise expressly provided in the condemnation resolution, condemnation shall vest in the city an estate in fee simple absolute to the property acquired.

"Section 6.83. Removal of structures on condemned land; lien. The city may allow the owner of property acquired by condemnation to remove any building, permanent improvement, or fixture wholly or partially located on or affixed to the property, and may specify a time after adoption of the final condemnation resolution within which it may be removed. If the report of commissioners deducted the value of any such property to be removed from the award of compensation and allowed the cost of removal as an element of damages and the owner fails to remove it within the time allowed, the city may remove it and the cost of the removal and storage of the property shall be chargeable against the owner and a lien upon any remainder of the property not acquired by the city, to be recovered or foreclosed in the manner provided by law for recovery of debt or foreclosure of mortgages.

"Section 6.84. Sale or other disposition of land condemned. When any land condemned in fee by the city is no longer needed for the purpose for which it was condemned, it may be used for any other public purpose or may be sold or disposed of in the manner prescribed by law for the sale and disposition of surplus property.

"Section 6.85. If the city desires to condemn land under this charter belonging to a public service corporation as defined in G.S. 160A-243(c), then the provisions of this charter shall not apply with regard to that condemnation unless the exercise of such eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

"ARTICLE 3. GARBAGE AND REFUSE DISPOSAL

"Section 6.101. Liens for garbage and refuse disposal charges. The council may establish charges to be made for garbage and refuse disposal. In case any charge for the removal and disposal of garbage and refuse is not paid within ten (10) days after it becomes due, the charge shall become a lien against the property served or in connection with which the service or facility is used and may be collected thereafter in the manner provided for collection of ad valorem taxes.

"CHAPTER VII. MISCELLANEOUS

"SUBCHAPTER A. CLAIMS AGAINST THE CITY

"Section 7.01. Presentation of claims. No action shall be instituted or maintained against the city upon any claim or demand whatsoever of any kind or character unless the claimant shall have first presented in writing his or her claim or demand to the city manager and said council or city manager shall have declined to pay or settle the same as presented. The written notice of the claim shall be made as required by G.S. 1-539.15. Nothing contained in this Subchapter shall be construed to prevent any statute of limitations from commencing to run at the time when a claim accrued or demand arose, or in any manner to interfere with its running.

"SUBCHAPTER B. CLAIMS BY THE CITY

"Section 7.21. Settlement of claims by the city manager. The city manager is hereby authorized to execute releases of persons, firms and corporations because of damages to personal property belonging to the city when the full amount of damages to such property is ascertained and a statement thereof has been furnished to the city manager by the city attorney and the amount of such release does not exceed one thousand dollars ($1,000.00). In the event that a draft or check is presented to the city which constitutes a release, instead of a regular release form, the city manager is hereby authorized to direct that such draft or check be handled as other payments to the city and, when approved by said city manager, shall constitute a release to the extent stated on the draft or check.

"SUBCHAPTER C. WAIVER OF GOVERNMENTAL IMMUNITY

"Section 7.41. Authority to purchase liability insurance. The city may contract to insure itself and any of its officers, agents and employees against liability for wrongful death or negligent or intentional damage to person or property, and against absolute liability for damage to person or property, caused by an act or omission of the city or any of its officers, agents or employees when acting within the scope of their authority or the course of their employment. The council shall determine what liabilities and what officers, agents and employees shall be covered by any insurance purchased pursuant to this section.

Purchase of insurance pursuant to this section waives the city's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function of local government during the term of the insurance. By entering into an insurance contract with the city, an insurer waives any defense based upon the governmental immunity of the city.

"Section 7.42. Damage suits against the government involving governmental functions. Any person, or in case of his death his personal representative, sustaining damages as a result of an act or omission of the city or any of its officers, agents or employees, occurring in the exercise of a governmental function of local government, may sue the city for recovery of damages. To the extent of the coverage of insurance purchased pursuant to Section 7.41, governmental immunity shall not be a defense to the action. Otherwise, the city shall have all defenses available to private litigants and to counties and municipalities in any action for wrongful death or intentional or negligent damage to person or property or absolute liability for damage to person or property, without restriction, limitation or other effect, whether the defense arises from common law or by virtue of any statute.

Despite the purchase of insurance as authorized by Section 7.41 of this Charter, the liability of the city for acts or omissions occurring in the exercise of governmental functions does not attach unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury. The judge shall hear and determine these issues without resort to a jury, and the jury shall be absent during any motions, arguments, testimony or announcement of findings of fact or conclusions of law relating to these issues unless the defendant requests a jury trial on them.

"SUBCHAPTER D. PRESUMPTION OF TITLE IN THE CITY

"Section 7.51. Presumption of title in the city. That in the absence of any contracts with the city in relation to the lands used or occupied by it for the purpose of streets, sidewalks, alleys, or other public works of the city, signed by

the owner thereof or his agent, it shall be presumed that such land has been granted to the city by the owner or owners thereof, and the city shall have good right and title thereto, and shall have, hold, and enjoy the same. Unless the owner or owners of such land, or those claiming under them shall make claim or demand for compensation within two years next after such land was taken, he, or they, shall be forever barred from recovering the land, or having any compensation therefor; provided, nothing herein contained shall affect the rights of infants until two years after the removal of their disabilities.

"SUBCHAPTER E. SUPPLEMENTARY

"Section 7.61. Powers granted supplementary. The powers granted by this Charter are supplementary to any powers heretofore or hereafter granted by any other general law, local act or amendment to this Charter for the same or similar purposes."

Sec. 2. The purpose of this act is to revise the Charter of the City of Conover and to consolidate herein certain acts concerning the property, affairs, and government of the city. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Conover.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 6. (a) All existing ordinances and resolutions of the City of Conover and all existing rules or regulations of departments or agencies of the City of Conover not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Conover or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the

invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. Chapter 101 of the Private Laws of 1883 as amended and special legislation, laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 70

CHAPTER 79

AN ACT AUTHORIZING APPOINTMENT OF A BOARD OF EQUALIZATION AND REVIEW FOR STANLY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Stanly County is hereby authorized and empowered to appoint for each tax year a special Board of Equalization and Review for Stanly County to be composed of five members. The board of county commissioners shall designate one of the five persons so appointed as chairman of the board of equalization and review. To be eligible for appointment to such board, a person must have resided in Stanly County for a period of at least one year immediately preceding his appointment, and must have had such experience in the appraisal and valuation of real and personal property as is satisfactory to the board of county commissioners. Members of the board of equalization and review shall serve for the duration of the tax year for which they are appointed. Vacancies shall be filled by appointment of the board of county commissioners.

Sec. 2. After a special board of equalization and review has been appointed and its members have taken the oath of office, it shall be vested with all of the powers and duties vested by law in county boards of equalization and review and boards of county commissioners with respect to the listing, appraisal, and assessment of property for taxation in the fiscal year beginning July 1 of the calendar year in which the board is appointed, except the following:

(1) the approval of late applications for the exclusion in G.S. 105-277.1,

(2) the authority to compromise discovery assessments in G.S. 105-312(k), or

(3) the approval of schedules of value in G.S. 105-317.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 90

CHAPTER 80

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PERMIT A SURVIVING SPOUSE OF EITHER SEX TO RECEIVE THE BENEFIT OF THE HOMESTEAD EXEMPTION.

The General Assembly of North Carolina enacts:

Section 1. Article X, Section 2(3) of the Constitution of North Carolina is rewritten to read as follows:

"Sec. 2(3). *Exemption for benefit of surviving spouse.* If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead."

Sec. 2. Article X, Section 2(4) of the Constitution of North Carolina is rewritten to read as follows:

"Sec. 2(4). *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse."

Sec. 3. The amendment set out in Sections 1 and 2 of this act shall be submitted to the qualified voters of the State at the next general election or at the next statewide election, whichever is earlier. That election shall be conducted under the laws then governing elections in this State.

Sec. 4. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

"☐ FOR constitutional amendment extending to a married man (as a married woman now has) the right to receive the homestead exemption, so that the homestead exemption is available to the surviving spouse of the owner of a homestead, if the owner dies leaving no minor children and the surviving spouse does not own a separate homestead.

☐ AGAINST constitutional amendment extending to a married man (as a married woman now has) the right to receive the homestead exemption, so that the homestead exemption is available to the surviving spouse of the owner of a homestead, if the owner dies leaving no minor children and the surviving spouse does not own a separate homestead."

Those qualified voters favoring the amendment set out in Sections 1 and 2 of this act shall vote by making an X or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposing the amendment shall vote by making an X or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 5. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 91 CHAPTER 81

AN ACT TO PERMIT A SURVIVING SPOUSE OF EITHER SEX TO RECEIVE THE BENEFIT OF THE HOMESTEAD EXEMPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-389 as it appears in the 1975 Cumulative Supplement to 1969 Replacement Volume 1A of the General Statutes is rewritten to read as follows:

"§ 1-389. *Allotted to surviving spouse or minor children on death of homesteader.*—If a person entitled to a homestead exemption dies without the homestead having been set apart, the surviving spouse, if the decedent leaves no children under the age of 18 years, or the decedent's child or children under the age of 18 years, may proceed to have the homestead exemption laid off by petition. If the surviving spouse or children have failed to have the exemption set apart in the manner provided, then in an action brought by the personal representatives of the decedent to subject the realty of the decedent to the payment of debts and charges of administration, it is the duty of the court to appoint three disinterested persons to set apart to such surviving spouse, child or children a homestead exemption under metes and bounds in the land of the decedent. The three persons so appointed shall under their hands and seals make return of the same to the court, which shall be registered in the same manner as homestead exemptions."

Sec. 2. This act shall become effective 30 days after certification by the State Board of Elections that an amendment to the Constitution of North Carolina rewriting Article X, Section 2(3) and Section 2(4) to permit a surviving spouse of either sex to receive the benefit of the homestead exemption unless the owner left surviving a minor child or children has been approved by the people of the State.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 215 CHAPTER 82

AN ACT TO PROVIDE THAT A MINOR MAY USE A DRIVER'S LICENSE AS VERIFICATION OF AGE FOR AN EMPLOYMENT CERTIFICATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-12(2) is hereby amended by rewriting subdivision b. thereof to read as follows:

"b. A baptismal certificate or transcript of the record of baptism, duly certified, and showing the date and place of birth; or a duly issued North Carolina learner's permit or driver's license; or".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 225 **CHAPTER 83**

AN ACT TO REQUIRE A CERTIFIED COPY OF A CERTIFICATE OF BIRTH BE ATTACHED TO THE PETITION IN A LEGITIMATION PROCEEDING AND BE ATTACHED TO THE COMPLAINT IN AN ACTION TO ESTABLISH PATERNITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 49-10 is hereby amended by adding a new sentence thereto, between the present second and third sentences, to read as follows:

"A certified copy of a certificate of birth of the child shall be attached to the petition."

Sec. 2. G.S. 49-14(a) is hereby amended by adding a new sentence thereto, between the present first and second sentences, to read as follows:

"A certified copy of a certificate of birth of the child shall be attached to the complaint."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 281 **CHAPTER 84**

AN ACT TO INCORPORATE THE TOWN OF BELVILLE IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants and the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the Town of Belville, and shall be vested with all the powers, functions, rights, privileges and immunities conferred upon municipalities by the Constitution and laws of the State of North Carolina, and specifically Chapter 160A of the General Statutes.

Sec. 2. The corporate boundaries of the Town of Belville shall be as described herein until changed in accordance with law:

Lying and being in Brunswick County and beginning at a point, the intersection of the Southern R/W line of the four lane U. S. 74-76 and the R/W line of the new N. C. Highway 133; thence from the said beginning point Southeast along the R/W line of the new N. C. Highway 133 about twenty-four hundred feet to the southeast corner of the A. N. Williams property; thence in a due east direction to the center of the Brunswick River; thence in a Northerly direction along the center of the Brunswick River to the Southern R/W line of the old U. S. 74-76 Highway; thence in an Easterly direction along the Southern R/W line of this Highway to the intersection with the Southern R/W line of the new four lane U. S. 74-76; thence in a westernly direction along the Southern R/W line of the four lane U. S. 74-76 to the point of beginning.

Sec. 3. The first governing body of the Town of Belville shall be a board of commissioners composed of four members, who are hereby appointed as follows: John Boney, B. N. Gallaway, Marshal Tinsley, and Joe Keisler, who shall serve until the first municipal election to be held in November 1977.

The first mayor shall be John Long, who shall serve until the first election in November 1977. In the event a vacancy occurs in the office of mayor or commissioner prior to the first election, the remaining members of the board of

commissioners shall appoint a qualified voter and resident of the town to serve until the first election for municipal officers.

Sec. 4. The regular municipal election shall be held in November 1977, and biennially thereafter for the election of a mayor and the members of the board of commissioners. The election shall be nonpartisan and decided by simple plurality and held at the time specified in G.S. 163-279(a)(1).

The municipal elections shall be held and conducted by the county board of elections and the town shall reimburse the county board of elections for the cost thereof except the first election required to be held herein. The elections shall be conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina, except as otherwise provided herein.

Sec. 5. In the 1977 municipal election and biennially thereafter, the mayor shall be elected for a term of two years. In the 1977 municipal election the two candidates for commissioner receiving the highest number of votes shall be elected for a term of four years, and the two candidates receiving the next highest number of votes shall be elected for a term of two years. Thereafter as the term of each member of the board of commissioners expires, his successor shall be elected for a term of four years.

Sec. 6. The mayor shall not have a vote on matters before the board of commissioners but shall have the right to vote only when there are equal numbers of votes in the affirmative and in the negative by the members of the board.

Sec. 7. The territory within the corporate limits and its citizens and property, shall be subject to municipal taxes levied by the town for the fiscal year 1977-1978, and subsequent years. The town may obtain from Brunswick County, and the county shall provide upon request, a record of property within the corporate limits which was listed for taxes as of January 1, 1977.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 296 CHAPTER 85

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO, AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959, AS AMENDED.

The General Assembly of North Carolina enacts:

Section 1. Section 4.128 of the Charter of the City of Greensboro, as set forth in Section 7, Chapter 42 of the Session Laws of 1965, is hereby amended by adding a new paragraph at the end of subsection (a) to read as follows:

"The city council may, by duly enacted ordinance, delegate and assign to the Greensboro Planning Board, the authority to release or quitclaim any rights the city may have in any water, sanitary sewer, storm sewer easements or any other right-of-way except street right-of-way. However, the Planning Board shall not authorize a release or quitclaim of any of the city's rights in an easement until the city manager and city attorney report in writing that the city has no further need for such right-of-way or easement for this particular improvement or for any other public purpose and that the easement or right-of-way should be

abandoned. All release deeds shall be duly executed on behalf of the City of Greensboro by the mayor and city clerk."

Sec. 2. Section 7.21 of the Charter of the City of Greensboro, as set forth in Section 24, Chapter 686 of the Session Laws of 1961, is hereby amended by deleting the words and figures "one thousand dollars ($1,000.00)" as they appear in the first sentence and by substituting in lieu thereof the words and figures "five thousand dollars ($5,000.00)".

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

S. B. 64 CHAPTER 86

AN ACT TO PROVIDE FOR SMALL CLAIMS COURT HEARINGS FOR THE ENFORCEMENT OF CERTAIN MECHANIC AND STORAGE LIENS ON MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. Article 19 of Chapter 7A is hereby amended by adding a new section to be designated G.S. 7A-211.1 and to read as follows:

"§ 7A-211.1. *Small claims action permitted; motor vehicle mechanic and storage liens enforcement.*—Notwithstanding the provisions of G.S. 7A-210(2) and G.S. 7A-211, the chief district judge may in his discretion, by specific order or general rule, assign to any magistrate of his district actions to enforce motor vehicle mechanic and storage liens arising under G.S. 44A-2(d) when the claim arose in the county in which the magistrate resides. The defendant may be subjected to the jurisdiction of the court over his person by the methods provided in G.S. 7A-217 or G.S. 1A-1, Rule 4(J), Rules of Civil Procedure."

Sec. 2. This act shall not affect pending litigation.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

S. B. 74 CHAPTER 87

AN ACT EXTENDING THE CORPORATE LIMITS OF THE TOWN OF HOLLY RIDGE.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Holly Ridge, Onslow County, are hereby extended to include the following described additional territory, to wit:

BEGINNING at a point halfway between the Seaboard Coastline Railroad's main tracks at the Northern corner of existing corporate limits, thence North 35°, 30' West 1880 feet to a stake, thence South 54°, 30' West 5296.50 feet parallel to the railroad to a stake, thence South 35°, 30' East 1880 feet to a point at the center of the main rails of Seaboard Coastline Railroad being the Southern corner of existing corporate limits, thence North 54°, 30' East along the center of rails of Seaboard Coastline Railroad 5296.50 feet to a point in the beginning containing 228.59 acres, more or less.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

H. B. 223 CHAPTER 88

AN ACT TO PROVIDE FOR ASSIGNMENTS OF CLAIMS AGAINST THE STATE FOR LEGAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-62, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is amended on line 12 after the word "associations" by inserting the following: ", prepaid legal services".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1977.

H. B. 196 CHAPTER 89

AN ACT TO PROHIBIT THE TAKING OF GAME FROM CERTAIN PUBLIC HIGHWAYS IN MARTIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 257 of the 1973 Session Laws is amended by adding, after the last unnumbered paragraph of Section 1, a new paragraph to read as follows:

"Beginning at the intersection of U. S. Highway 17 and the Roanoke River, thence with U. S. Highway 17 in a southerly direction to its intersection with U. S. Highway 64; thence along a generally westerly direction along U. S. 64 to the Pitt County line; thence along the Pitt County line to its intersection with the Edgecombe-Martin County line; thence in a generally northerly direction along the Edgecombe-Martin County line to its intersection with the Halifax-Martin County line; thence in a northeasterly direction along the Halifax-Martin County line to its intersection with the Roanoke River, thence in a generally southeasterly direction along the Roanoke River to the point of beginning."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1977.

H. B. 220 **CHAPTER 90**

AN ACT TO PROHIBIT THE HUNTING OF BEAR IN BEAUFORT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to hunt, take or kill or attempt to hunt, take or kill at any time a bear in Beaufort County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1977.

H. B. 82 **CHAPTER 91**

AN ACT TO AUTHORIZE ABSENTEE BALLOTS IN THE ELECTION FOR MEMBERS OF THE COUNTY BOARD OF EDUCATION IN THE COUNTIES OF JACKSON, MADISON AND SWAIN.

The General Assembly of North Carolina enacts:

Section 1. Any qualified voter of the county who is qualified to vote an absentee ballot under G.S. 163-226(a), shall be eligible to vote by absentee ballot in the primary and election for members of the County Board of Education in the counties of Jackson, Madison and Swain.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 136 **CHAPTER 92**

AN ACT TO CLARIFY THE PENALTIES FOR EVASION OF PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-308 is amended by rewriting the third paragraph thereof as follows:

"Any person who willfully attempts, or who willfully aids or abets any person to attempt, in any manner to evade or defeat the taxes imposed under this Subchapter, whether by removal or concealment of property or otherwise, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment not to exceed six months or by both such fine and imprisonment."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 153

CHAPTER 93

AN ACT TO PROVIDE PROCEDURES FOR PERSONS ENTITLED TO VOTE ABSENTEE BALLOTS PURSUANT TO G.S. 163-245 TO VOTE IN PERSON UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 21 of Chapter 163 of the General Statutes is hereby amended by adding three new sections at the end thereof to be designated and to read as follows:

"§ 163-254. *Registration, voting on primary or election day.*—Notwithstanding any other provisions of Chapter 163 of the General Statutes, any person entitled to vote an absentee ballot pursuant to G.S. 163-245 shall be permitted to register in person at any time including the day of a primary or election. Should such person's eligibility to register or vote as provided in G.S. 163-245 terminate after the registration records have closed prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified during the time the records are closed, or on the primary or election day, and shall be permitted to vote if such person is otherwise qualified.

"§ 163-255. *Absentee voting at office of board of elections.*—Notwithstanding any other provisions of Chapter 163 of the General Statutes, any person eligible to vote an absentee ballot pursuant to G.S. 163-245 shall be permitted to vote an absentee ballot pursuant to G.S. 163-227.2 if the person has not already voted an absentee ballot which has been returned to the board of elections, and if he will not be in the county on the day of the primary or election.

In the event an absentee application or ballot has already been mailed to such person applying to vote pursuant to G.S. 163-227.2, the board of elections shall void the application and ballot unless the voted absentee ballot has been received by the board of elections. Such person shall be eligible to vote pursuant to G.S. 163-227.2 no later than 6:00 p.m. on the day next preceding the primary, second primary or election.

"§ 163-256. *Regulations by State Board of Elections.*—The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-254 and G.S. 163-255, and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure proper registration records, and such rules and regulations shall not be subject to the provisions of G.S. 150A-9."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 234 **CHAPTER 94**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN WARREN, CAMDEN, AND PERQUIMANS COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner is hereby abolished in Warren, Camden, and Perquimans Counties.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act becomes effective:

(a) at the end of the present term of office of the incumbent coroner in that county or counties in which there is an incumbent; and

(b) upon ratification in that county or counties in which the office is vacant.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 272 **CHAPTER 95**

AN ACT TO PROVIDE FOR PRECINCT ASSISTANTS AT THE OPTION OF BOARDS OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-42, as it appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by rewriting the first paragraph to read as follows:

"Each county and municipal board of elections is authorized, in its discretion, to appoint two or more assistants for each precinct to aid the registrar and judges. Not more than two assistants shall be appointed in precincts having 500 or less registered voters. Assistants shall be qualified voters of the precinct for which appointed. When the board of elections determines that assistants are needed in a precinct an equal number shall be appointed from different political parties, unless the requirement as to party affiliation cannot be met because of an insufficient number of voters of different political parties within a precinct."

Sec. 2. G.S. 163-42, as it appears in the 1976 Replacement Volume 3D of the General Statutes, is further amended by deleting the fourth paragraph.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 313 **CHAPTER 96**

AN ACT TO AMEND G.S. 14-111.3, WHICH MAKES FALSE AMBULANCE REQUESTS UNLAWFUL IN CERTAIN NAMED COUNTIES, TO INCLUDE ASHE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-111.3, as the same appears in the 1975 Cumulative Supplement, is hereby amended by adding the word and punctuation "Ashe," after the words "Counties of" in the first line of paragraph two.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 351 CHAPTER 97

AN ACT TO AMEND G.S. 160A-274 TO AUTHORIZE NEW HANOVER COUNTY TO DEED REAL PROPERTY TO THE UNITED STATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-274 is amended by inserting in the first line thereof after the word "means" and before the words "a city, county" the words and punctuation "United States Government,".

Sec. 2. This act shall apply only to New Hanover County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 360 CHAPTER 98

AN ACT TO AMEND G.S. 153A-335 TO MODIFY AUTHORITY OF PAMLICO COUNTY TO REGULATE THE SUBDIVISION OF LAND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335 is hereby amended by adding the following new paragraphs:

"(5) The conveyance of a lot or tract out of a larger tract where such conveyance does not involve the dedication of a new street or change in an existing street, and where the resultant lot or tract is equal to or exceeds the standards of the County Subdivision Ordinance.

(6) The conveyance of a lot or tract to a grantee who would have been an heir of the grantor if the grantor had died intestate immediately prior to the conveyance.

(7) The conveyance of a lot or tract for the purpose of dividing lands among tenants in common, all of whom inherited by intestacy or by will, the land from a common ancestor."

Sec. 2. This act shall apply only to Pamlico County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

S. B. 107 CHAPTER 99

AN ACT TO AMEND ARTICLE 6 OF CHAPTER 53 RELATING TO BANKS TO PROVIDE FOR LEGAL BANKING HOLIDAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-77.1(d)(2) is hereby rewritten to read as follows:

"(2) The bank shall remain open on each of the following State legal public holidays: Lee-Jackson Day, Washington's Birthday, Halifax Day, Confederate Memorial Day, Mecklenburg Declaration of Independence Day, Columbus Day, Veteran's Day, and Election Day, unless such holiday falls on the day on which said bank is otherwise closed under the provisions of this section."

Sec. 2. Article 6 of Chapter 53 is hereby amended by inserting a new section to be designated G.S. 53-77.2A and to read as follows:

"§ 53-77.2A. *Legal banking holidays.*—(a) Any bank, as defined by G.S. 53-1 or G.S. 53-136, including national banking associations and federal reserve banks, or any branch or office of any of the foregoing located in this State, which operates on a five-day week basis, may observe as legal banking holidays the following:

(1) New Year's Day, January 1;
(2) Monday, January 2, when January 1 (New Year's Day) falls on a Sunday;
(3) Monday, January 3, when January 1 (New Year's Day) falls on a Saturday;
(4) Easter Monday;
(5) Memorial Day, the last Monday in May;
(6) Independence Day, July 4;
(7) Monday, July 5, when July 4 (Independence Day) falls on a Sunday;
(8) Monday, July 6, when July 4 (Independence Day) falls on a Saturday;
(9) Labor Day, the first Monday in September;
(10) Thanksgiving Day, the fourth Thursday in November;
(11) Christmas Day, December 25;
(12) December 26;
(13) Monday, December 27, when December 25 (Christmas Day) falls on a Saturday.

(b) Any banking institution as hereinabove defined, operating on a six-day week basis, may, in addition to the above-named legal banking holidays, observe all other legal public holidays designated by G.S. 103-4.

(c) Notwithstanding subsections (a) and (b), any banking institution as hereinabove defined, whether operating on a five-day or six-day week basis may remain open on any legal holiday that it may observe as set forth above by notifying the Commissioner of Banks, in writing, 30 days prior to the legal holiday on which it wishes to remain open."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

S. B. 184 CHAPTER 100

AN ACT TO AMEND G.S. 143-452(g) RELATING TO THE LICENSE OF A PESTICIDE APPLICATOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-452(g) is rewritten to read as follows:

"(g) A pesticide applicator's license shall not be transferable. When there is a transfer of ownership, management, or operation of a business of a licensee hereunder, the new owner, manager, or operator (as the case may be) whether it be an individual, firm, partnership, corporation, or other entity, must have available a licensed pesticide applicator to supervise the pesticide application business prior to continuance of such business."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1977.

H. B. 333

CHAPTER 101

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MARION AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Marion is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF MARION.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. *Incorporation.* The City of Marion, North Carolina, in the County of McDowell, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Marion', hereinafter at times referred to as the 'City'.

"Sec. 1.2. *Powers.* The City of Marion shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the City of Marion, specifically, or upon municipal corporations, generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate limits.* The corporate limits of the City of Marion shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the City, and as the same may be altered from time to time in accordance with law. An official map of the City, showing the current City boundaries, shall be maintained permanently in the office of the City Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the City shall be made.

"Sec. 1.4. through 1.10. (Reserved.)

"ARTICLE II.

"MAYOR AND COUNCIL.

"Sec. 2.1. *Governing body.* The Mayor and City Council, elected and constituted as herein set forth, shall be the governing body of the City. On behalf of the City, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.

"Sec. 2.2. *City Council; composition; terms of office.* The City Council shall be composed of five members, each of whom shall be elected for terms of four years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Mayor; term of office; duties.* The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of 4 years, or until his or her successor is elected and qualified. The Mayor shall be the official head of the City Government and shall preside at all meetings of the City Council. The Mayor shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred by the General Statutes of North Carolina, by this Charter, and by the ordinances of the City.

"Sec. 2.4. *Mayor pro tempore.* In accordance with applicable State laws, the Council shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 2.5. *Meetings of the Council.* In accordance with the General Statutes, the Council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of City ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Council. The enacting clause of all City ordinances shall be: 'Be it ordained by the City Council of the City of Marion'.

"Sec. 2.7. *Voting requirements; quorum.* Official action of the Council shall in every instance be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Council is present. Vacant seats are to be subtracted from the normal Council membership to determine the actual membership.

"Sec. 2.8. *Qualifications for office; vacancies; compensation.* The compensation of Council members, the filling of vacancies on the Council, and the qualifications of Council members shall be in accordance with applicable provisions of the General Statutes.

"Sec. 2.8. through 2.15. (Reserved.)

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. *Regular municipal elections; conduct and method of election.* Regular municipal elections shall be held in the City every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Council shall be elected according to the nonpartisan plurality method of election.

"Sec. 3.2. *Election of the Mayor.* At the regular municipal election in 1977, and every four years thereafter, there shall be elected a Mayor to serve a term of four years. The Mayor shall be elected by the voters of the City voting at large.

"Sec. 3.3. *Election of the council members.* At the regular municipal elections in 1977 and every four years thereafter, there shall be elected three Council members to fill the seats of those officers whose terms are then expiring. At the regular municipal elections in 1979 and every four years thereafter, there shall be elected two Council members to fill the seats of those officers whose terms are then expiring.

"Sec. 3.4 through 3.10. (Reserved.)

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. *Form of government.* The City shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *City Manager.* The Council shall appoint a City Manager who shall serve at the pleasure of the Council, who shall be the head of the administrative branch of City government, and who shall be responsible to the Council for the proper administration of the affairs of the City. In exercising the duties of chief administrator, the Manager shall:

(a) Except as provided in subsection (b) hereof, appoint and suspend or remove all City employees whose appointment or removal is not otherwise provided for by law, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt;

(b) Recommend to the Council for their approval appointments to the positions of the City Clerk, Tax Collector, Finance Officer, Public Works Director, Fire Chief and Chief of Police. Appointments to the positions of Assistant Fire Chief and/or Assistant Chief of Police shall be made by the City Council upon recommendation from the appropriate department head and the City Manager;

(c) Direct and supervise the administration of all departments, offices, and agencies of the City, subject to the general direction and control of the Council except as otherwise provided by law;

(d) Attend all meetings of the Council and recommend any measures deemed expedient;

(e) See that all laws of the State, the City Charter and the ordinances, resolutions and regulations adopted by the Council are faithfully executed within the City;

(f) Prepare and submit the annual budget and capital program to the Council;

(g) Annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of the fiscal year;

(h) Make any other reports that the Council may require concerning the operations of the City departments, offices, and agencies subject to the Manager's direction and control; and

(i) Perform any other duties that may be required and authorized by the Council.

"Sec. 4.3. *City Attorney.* The Council shall appoint a City Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the City Attorney to prosecute and defend suits against the City; to advise the Mayor, Council and other City officials with respect to the affairs of the City; to draft all legal documents relating to the affairs of the City; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the City may be concerned; to attend meetings of the Council and to perform other duties required by law or as the Council may direct.

"Sec. 4.4. *City Clerk.* The Council shall appoint a City Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the Council may direct.

"Sec. 4.5. *City Finance Officer.* The Council shall provide for the appointment of a City Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. *City Tax Collector.* The Council shall appoint a City Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the City, subject

to the General Statutes, the provisions of this Charter and the ordinances of the City. The City Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. *Consolidation of functions.* The Council may consolidate any two or more positions of City Manager, City Clerk, City Tax Collector and City Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. *Other administrative officers and employees.* Consistent with applicable State laws, the Council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the City government in order to promote the orderly and efficient administration of the affairs of the City.

"Sec. 4.9 through 4.15. (Reserved.)

"ARTICLE V.

"SPECIAL PROVISIONS.

"Sec. 5.1. *Assessments for street and sidewalk improvements; petition unnecessary.* A. In addition to any authority which is now or may hereafter be granted by general law to the City for making street improvements, the Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Section.

B. The Council may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact:

(1) That the street improvement project does not exceed 1,200 linear feet, and

(2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(3) That it is in the public interest to connect two streets, or portions of a street already improved, or

(4) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the City's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Section.

C. For the purposes of this Section, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

D. In addition to any authority which is now or may hereafter be granted by general law to the City for making sidewalk improvements, the Council is hereby authorized, without the necessity of obtaining a petition, to make or to order to be made sidewalk improvements or repairs according to standards and

specifications of the City, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Section, the Council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this Section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

Sec. 2. The purpose of this act is to revise the Charter of the City of Marion and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Marion.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Ch. 49 Priv. L. 1844
Ch. 194 Priv. L. 1847
Ch. 120 Priv. L. 1857
Ch. 16 Priv. L. 1862
Ch. 18 Priv. L. 1869
Ch. 109 Priv. L. 1869
Ch. 59, Priv. L. 1869
Ch. 77 Pub. L. 1871
Ch. 85 Pub. L. 1881
Ch. 183 Priv. L. 1899
Ch. 114 Priv. L. 1891
Ch. 310 Pub. L. 1895
Ch. 286 Priv. L. 1895
Ch. 73 Priv. L. 1901
Ch. 149 Priv. L. 1901
Ch. 428 Priv. L. 1901
Ch. 247 Priv. L. 1903
Ch. 369 Priv. L. 1907
Ch. 73 Priv. L. 1909
Ch. 291 Priv. L. 1909

Ch. 105 Priv. L. 1911
Ch. 121 Priv. L. 1915
Ch. 317 Priv. L. 1915
Ch. 19 Priv. L. 1917
Ch. 54 Priv. L. 1917
Ch. 103 Priv. L. 1917
Ch. 8 Priv. L. 1919
Ch. 42 Priv. L. 1919
Ch. 31 Priv. Ex. 1920
Ch. 161 Priv. L. 1921
Ch. 9 Priv. L. Ex. 1921
Ch. 162 Priv. L. 1923
Ch. 44 Priv. L. Ex. 1924
Ch. 128 Priv. L. 1925
Ch. 103 Priv. L. 1929
Ch. 106 Priv. L. 1931
Ch. 163 Priv. L. 1931
Ch. 792 S. L. 1947
Ch. 793 S. L. 1947
Ch. 1159 S. L. 1951
Ch. 309 S. L. 1953
Ch. 388 S. L. 1953
Ch. 417 S. L. 1955
Ch. 881 S. L. 1959
Ch. 665 S. L. 1967

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. All existing ordinances and resolutions of the City of Marion and all existing rules or regulations of departments or agencies of the City of Marion not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Marion or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision

or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1977.

S. B. 42

CHAPTER 102

AN ACT TO AMEND G.S. CHAPTER 35 RELATING TO MENTAL DISEASES AND INCOMPETENTS TO REMOVE SEX DISCRIMINATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 35-7 is hereby repealed.

Sec. 2. G.S. 35-13 is rewritten to read as follows:

"§ 35-13. *Spouse of incompetent husband or wife entitled to special proceeding for sale of property.*—Every married person whose husband or wife is adjudged incompetent and is confined in a mental hospital or other institution in this State, and who was living with the incompetent spouse at the time of commitment shall, if he or she be in needy circumstances, have the right to bring a special proceeding before the clerk of the superior court to sell the property of the incompetent spouse, or so much thereof as is deemed expedient, and have the proceeds applied for support: Provided, that said proceeding shall be approved by the judge of the superior court holding the courts of the judicial district where the said property is situated. When the deed of the commissioner appointed by the court, conveying the lands belonging to the incompetent spouse is executed, probated, and registered, it conveys a good and indefeasible title to the purchaser."

Sec. 3. G.S. 35-19 is rewritten to read as follows:

"§ 35-19. *Income of incompetent surviving spouse used for children's support.*—When a parent dies leaving surviving minor children and a surviving spouse who is the other parent of such children, but leaving no sufficient estate for the support, maintenance and education of such minor children, and the surviving spouse is or becomes incompetent and is so declared according to law, and such incompetency continues for 12 months thereafter, and the incompetent person has an estate which is placed in the hands of a guardian or other person, as provided by law, the estate of such incompetent person shall be made liable for the support, maintenance and education of the minor children. The clerk of the superior court for the county in which the incompetent person has residence shall order that fit and proper advancements be made on behalf of the minor children."

Sec. 4. This act shall not affect pending litigation.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1977.

S. B. 133 CHAPTER 103

AN ACT TO PROVIDE FOR THE RECORDING AND INDEXING OF CHATTEL MORTGAGES MADE BY PUBLIC UTILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-9-302(5) is hereby amended by rewriting the section to read as follows:

"(5) The filing provisions of this Article do not apply to a security interest in property of any description or any interest therein created by a deed of trust or mortgage made by a public utility as defined in G.S. 62-3(23), or by any electric or telephone membership corporation domesticated or incorporated in North Carolina, but the deed of trust or mortgage shall be registered in the county or counties in which such deed of trust or mortgage is required by G.S. 47-20 to be registered, and all such instruments, including those creating security interests in personal property, shall be recorded in the real property records and indexed in the real property indexes."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of March, 1977.

S. B. 121 CHAPTER 104

AN ACT TO AUTHORIZE ELECTRONICALLY MODULATED HEADLAMPS ON MOTORCYCLES AND EMERGENCY VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-130, as it appears in the 1975 Replacement of Volume 1C, is amended by adding a new subsection (d) to read as follows:

"(d) Electronically Modulated Headlamps.—Nothing contained in this Chapter shall prohibit the use of electronically modulated headlamps on motorcycles, law enforcement and fire department vehicles, county fire marshals and civil preparedness coordinators, public and private ambulances, and rescue squad emergency service vehicles, provided such headlamps and light modulator are of a type or kind which have been approved by the Commissioner of Motor Vehicles."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of March, 1977.

H. B. 288 **CHAPTER 105**

AN ACT TO AMEND G.S. 131-3 TO ALLOW THE NORTH CAROLINA ORTHOPEDIC HOSPITAL AT GASTONIA TO OPERATE A SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131-3 is hereby amended by deleting the words "for patients" in line 3 thereof.

Sec. 2. State appropriations for the education program at the North Carolina Orthopedic Hospital shall not be increased to provide additional support for the school authorized by this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1977.

H. B. 274 **CHAPTER 106**

AN ACT TO AMEND CHAPTER 269, SESSION LAWS OF 1975, SO AS TO PROHIBIT NIGHT HUNTING WITH ARTIFICIAL LIGHTS IN ROWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 269, Session Laws of 1975, is amended by rewriting Section 5 thereof to read as follows:

"This act shall apply only to the counties of Gates, Hertford, Johnston, Northampton, Rowan and Wayne."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1977.

H. B. 277 **CHAPTER 107**

AN ACT TO AMEND G.S. 51-3 TO REMOVE REFERENCES TO RACE AND TO CLARIFY ITS PROVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 51-3, as the same appears in the 1976 Replacement Volume 2A of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 51-3. *Want of capacity; void and voidable marriages.*—All marriages between any two persons nearer of kin than first cousins, or between double first cousins, or between a male person under 16 years of age and any female, or between a female person under 16 years of age and any male, or between persons either of whom has a husband or wife living at the time of such marriage, or between persons either of whom is at the time physically impotent, or between persons either of whom is at the time incapable of contracting from want of will or understanding, shall be void. No marriage followed by cohabitation and the birth of issue shall be declared void after the death of either of the parties for any of the causes stated in this section except for bigamy. No marriage by persons either of whom may be under 16 years of age, and otherwise competent to marry, shall be declared void when the girl shall be pregnant, or when a child shall have been born to the parties unless such child at the time of the action to annul shall be dead. A marriage contracted under a representation and belief

that the female partner to the marriage is pregnant, followed by the separation of the parties within 45 days of the marriage which separation has been continuous for a period of one year, shall be voidable unless a child shall have been born to the parties within 10 lunar months of the date of separation."

Sec. 2. Article 1 of General Statutes Chapter 51 is amended by adding a new section to read as follows:

"§ 51-3.1. *Interracial marriages validated.*—All interracial marriages that were declared void by statute or a court of competent jurisdiction prior to the effective date of this section are hereby validated. The parties to such interracial marriages are deemed to be lawfully married, provided that the provisions of this Chapter have been complied with."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1977.

H. B. 299 CHAPTER 108

AN ACT TO AMEND CHAPTER 341, SESSION LAWS OF 1975, SO AS TO MAKE IT APPLICABLE TO ROWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 341, Session Laws of 1975, is hereby amended as follows:

(a) by adding at the end of Section 1 thereof the words "and Rowan County".

(b) by adding at the end of Section 4 thereof the words "and Rowan County".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1977.

S. B. 123 CHAPTER 109

AN ACT TO EXTEND THE EXPIRATION DATE OF THE FAIR ACCESS INSURANCE PLAN FROM DECEMBER 31, 1977, TO DECEMBER 31, 1980.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-173.27, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by deleting on line 2 the number "1977" and by inserting in lieu thereof the number "1980" and by adding a new sentence to read as follows:

"If the Urban Property Protection and Reimbursement Act of 1968 expires at any time and is subsequently revived or extended, this Article shall be revived and extended and shall be and remain effective simultaneously with the effective dates of the Urban Property Protection and Reimbursement Act of 1968."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1977.

H. B. 395 CHAPTER 110

AN ACT TO DELETE LENOIR COUNTY FROM G.S. 47-32.2 SO THAT WILLFUL VIOLATIONS OF G.S. 47-30 AND G.S. 47-32, CONCERNING FILING OF MAPS, SHALL BE PUNISHABLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-32.2 is hereby amended on line 8 by deleting the word "Lenoir" as the same appears in Volume 2A of the General Statutes.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

H. B. 396 CHAPTER 111

AN ACT TO DELETE LENOIR COUNTY FROM G.S. 47-32 SO THAT MAPS MUST MEET CLERK'S SPECIFICATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-32 is hereby amended on line 4 of the second paragraph by deleting the word "Lenoir" as the same appears in Volume 2A of the General Statutes.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

H. B. 418 CHAPTER 112

AN ACT TO AUTHORIZE FORSYTH COUNTY TO CONDUCT AS OWNER CERTAIN ACTIVITIES IN THE OPERATION OF TANGLEWOOD PARK.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to authorize Forsyth County as the owner of Tanglewood Park to conduct certain activities in connection with the operation of Tanglewood Park as a recreational facility and conference center. It is the further purpose of this act to authorize Forsyth County to operate Tanglewood Park in the same manner and to provide at Tanglewood Park the same recreational activities as have been provided at Tanglewood Park in the past. Tanglewood Park consists of 1152 acres in western Forsyth County and lies on the banks of the Yadkin River. It is described with particularity in Deed Book 1193, page 1579, Forsyth County Registry.

Sec. 2. Notwithstanding any other laws or provisions thereof, Forsyth County is hereby authorized to conduct the following activities at Tanglewood Park:

a. operation and maintenance of tennis and volleyball courts;

b. operation and maintenance of campground facilities, both for mobile home campers and tent campers and provision of services reasonably necessary thereto, including provision of laundry facilities and equipment;

c. operation and maintenance of golf courses, including driving ranges, par-three courses, and miniature golf courses, including the rental of balls, clubs, and other equipment, and including the right to sell memberships to any member of the public who wishes one;

d. operation and maintenance of swimming pools, including rental of such pools to groups for special functions, provided such rental does not unreasonably impair the use of such pools by the public;

e. holding of a steeplechase or horse race event open to the public, the printing of programs therefor, and the sale of advertising space in such programs, the solicitation of donations for such event, and the provision of cash prizes for said event, provided such prizes may not be provided from tax funds;

f. operation and maintenance of a motel for the use of the general public utilizing any of the facilities of Tanglewood Park, including the right to charge a reasonable rental for lodging at such motel;

g. operation of a day camp for children, provided all permits required by applicable law are obtained;

h. operation of the various lakes on the property, including the rental of boats and charging of a fee for fishing;

i. provision of fire works displays for special occasions, provided all permits required by State law are obtained;

j. maintenance of the church and graveyard on the property including rental of said church for special functions, such as weddings;

k. operation and maintenance of a clubhouse, including the rental of the meeting rooms for meetings and other functions;

l. operation and maintenance of picnic and other meeting facilities, including the right to rent said facilities for special functions;

m. maintenance and rental of any cottage or residence for a reasonable period of time;

n. operation and maintenance of a theater, including rental of said theater for the season for the production of plays or other entertainments, or rental to groups or individuals for meetings, special functions or other occasions;

o. rental of surplus office space to various groups for parks and recreational purposes;

p. operation and maintenance or rental of the barns, stables, other facilities for the housing, exercising, grooming, and other activities incidental to the keeping of horses;

q. operation of a work-play program for underprivileged children in Forsyth County;

r. provision of food, drink, or other refreshment, including the operation of restaurants at any appropriate place within the park;

s. conduct of retail sales of various articles, such as golf equipment customarily sold at retail in connection with the various types of recreational activities mentioned above;

t. right to accept payment for various activities and articles mentioned above by any reputable credit card.

Sec. 3. Forsyth County is hereby authorized to conduct such additional activities as are necessary or desirable to the operation and maintenance of Tanglewood Park.

Sec. 4. Whether specifically mentioned above or not, Forsyth County is hereby authorized to charge a reasonable fee for any activity conducted at Tanglewood Park, provided however, said fees shall not be charged to produce revenue beyond the reasonable needs of Forsyth County for operation, maintenance and capital expansion of the park.

Sec. 5. Forsyth County is authorized to conduct the various activities mentioned herein or those reasonably necessary or desirable to the operation and maintenance of Tanglewood Park either directly or by lease or concession of the various facilities to persons, groups or corporations.

Sec. 6. Forsyth County may operate Tanglewood Park as a department or division of the county government, by appointment of a board of commission, or by lease to a nonprofit corporation. Forsyth County may vest in such an appointed board or commission or in a nonprofit corporation any or all of the powers set forth in this act or otherwise authorized by law for carrying out the purpose and intent of this act.

Sec. 7. Forsyth County is hereby authorized to protect the name "Tanglewood Park" by registering it with the Secretary of State, if such name meets the requirements for corporate names as set forth in Chapter 55 of the North Carolina General Statutes.

Sec. 8. The provisions, sections, paragraphs, portions and all parts of this act are hereby declared to be severable, and the determination by a court of competent jurisdiction that any part of this act is invalid shall not affect the other parts.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

S. B. 206 **CHAPTER 113**

AN ACT RELATING TO THE MEETINGS OF AND THE CLERK TO THE GASTON COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 375, Session Laws of 1975, is hereby amended by rewriting Section 4 thereof to read as follows:

"Sec. 4. The meetings of the Board of Commissioners of Gaston County shall be fixed and held in accordance with G.S. 153A-40."

Sec. 2. Chapter 346, Public Laws of 1905, authorizing the Clerk to the Gaston County Board of Commissioners to break a tie vote, is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

S. B. 219 **CHAPTER 114**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner is hereby abolished in Wake County.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

H. B. 92 **CHAPTER 115**

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO ALLOW EVERY PERSON THE RIGHT TO INSURE HIS OR HER LIFE FOR THE BENEFIT OF HIS OR HER SPOUSE OR CHILDREN OR BOTH.

The General Assembly of North Carolina enacts:

Section 1. Article X, Section 5 of the Constitution of North Carolina, is rewritten to read as follows:

"Sec. 5. Insurance. A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next general election or at the next statewide election, whichever is earlier. That election shall be conducted under the laws then governing elections in this State.

Sec. 3. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

"☐ FOR constitutional amendment allowing every person the right to insure his or her life for the benefit of his or her spouse or children or both, free from all claims of the representatives or creditors of the insured or his or her estate.

"☐ AGAINST constitutional amendment allowing every person the right to insure his or her life for the benefit of his or her spouse or children or both, free from all claims of the representatives or creditors of the insured or his or her estate."

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by making an X or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposing the amendment shall vote by making an X or a check mark in the square beside the statement beginning "AGAINST".

Sec. 4. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. B. 248 **CHAPTER 116**

AN ACT TO PROHIBIT DRIVER TRAINING INSTRUCTIONS BY PERSON UNDER THE INFLUENCE.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 20 of the General Statutes is hereby amended by adding a new section to be designated G.S. 20-12.1 and to read as follows:

"§ 20-12.1. *Instructors of minors regulated.*—It shall be unlawful for any person who is under the influence of intoxicating liquor or who is under the influence of drugs to accompany or instruct another person as provided in G.S. 20-11 and G.S. 20-12 of this Article."

Sec. 2. Any person accompanying and instructing another person as provided in G.S. 20-11 and G.S. 20-12 of this Article shall be subject to the provisions of G.S. 20-16.2 to the same intent and in the same manner as persons who drive or operate a motor vehicle and in addition shall be subject to the provisions of G.S. 20-17(2).

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. B. 275 **CHAPTER 117**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF LUCAMA, NORTH CAROLINA, AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Lucama, Wilson County, North Carolina, is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF LUCAMA.

"CHAPTER I.

"ARTICLE I.

"INCORPORATION AND CORPORATE POWERS.

"Sec. 1-1. *Incorporation and general powers.* The inhabitants of the town of Lucama are a body corporate and politic under the name of the 'Town of Lucama'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II.

"CORPORATE BOUNDARIES.

"Sec. 2-1. *Town boundaries.* Until modified in accordance with law, the boundaries of the town of Lucama are as follows:

BEGINNING at a point in the center of the North bound track of the Seaboard Coastline Railroad, said point being designated Y = 692,045.37 - X = 2,295,833.89 in the North Carolina Grid System, thence from said point of beginning South 27 deg. 09 min. 49 sec. East 1,388.51 feet, cornering, thence South 62 deg. 50 min. 11 sec. West 169.74 feet to a point in the center of S.R. # 1649, cornering, thence with and along the center of S.R. # 1649 South 02 deg. 12 min. 13 sec. East 305.64 feet, South 00 deg. 30 min. 35 sec. East 65.12 feet,

South 06 deg. 36 min. 16 sec. West 100.93 feet, South 15 deg. 41 min. 34 sec. West 99.96 feet, South 19 deg. 11 min. 51 sec. West 508.40 feet and South 21 deg. 18 min. 41 sec. West 99.98 feet to a point in the center of S.R. # 1645 (Black Creek Road), continuing thence with and along the center of S.R. # 1649 South 21 deg. 55 min. 16 sec. West 332.55 feet, South 20 deg. 01 min. 16 sec. West 99.99 feet, South 17 deg. 53 min. 14 sec. West 99.99 feet, South 16 deg. 50 min. 22 sec. West 285.25 feet, South 16 deg. 19 min. 27 sec. West 165.55 feet and South 14 deg. 00 min. 55 sec. West 1,454.13 feet to a point, cornering, thence leaving S.R. # 1649 North 12 deg. 34 min. 28 sec. West 2,117.16 feet to a point, cornering, thence North 89 deg. 47 min. 41 sec. West 464.32 feet to a point, cornering, thence South 79 deg. 07 min. 16 sec. West 1,509.88 feet to a point, cornering, thence North 27 deg. 09 min. 49 sec. West 2,803.02 feet to a point, cornering, thence North 62 deg. 50 min. 11 sec. East 3,271.54 feet to a point, cornering, thence North 00 deg. 31 min. 41 sec. West 143.27 feet to a point, cornering, thence North 82 deg. 11 min. 42 sec. East 386.33 feet to a point, cornering, thence North 62 deg. 50 min. 11 sec. East 187.81 feet to a point cornering, thence South 27 deg. 09 min. 49 sec. East 65.99 feet to a point, cornering, thence North 82 deg. 11 min. 42 sec. East 1,151.12 feet to a point in the Westerly right of way of S.R. # 1649, cornering, thence with and along the Westerly right of way of S.R. # 1649 South 06 deg. 13 min. 41 sec. East 433.60 feet to a point, the beginning of a sight distance, cornering, thence along the said sight distance South 28 deg. 53 min. 48 sec. West 62.24 feet to a point in the Northerly right of way of U. S. Highway #301, cornering, thence with and along the Northerly right of way of U. S. Highway #301, South 62 deg. 42 min. 14 sec. West 880.04 feet to a point, cornering, thence South 27 deg. 09 min. 49 sec. East 524.99 feet to the point of beginning.

"ARTICLE III.

"GOVERNING BODY.

"Sec. 3-1. *Structure of governing body; number of members.* The governing body of the town of Lucama is the board of commissioners, which has five members, and the mayor.

"Sec. 3-2. *Manner of election of board.* The qualified voters of the entire town elect the members of the board.

"Sec. 3-3. *Term of office of members of the board.* At the 1977 regular municipal election, all five members of the board of commissioners shall be elected. The three candidates receiving the highest number of votes shall be elected for four-year terms and the two candidates receiving the next highest number of votes shall be elected for two-year terms. Thereafter, all members of the board are elected to four-year terms. In the 1979 regular municipal election and each fourth year thereafter, two members of the board shall be elected to four-year terms. In the 1981 regular municipal election and each fourth year thereafter, three members of the board shall be elected to four-year terms.

"Sec. 3-4. *Manner of election of mayor.* The qualified voters of the entire town elect the mayor.

"Sec. 3-5. *Term of office of mayor.* At the 1977 regular municipal election, the mayor shall be elected to serve a two-year term. In the 1979 regular municipal election and each fourth year thereafter, the mayor shall be elected to a four-year term of office.

"ARTICLE IV.
"ELECTIONS.

"Sec. 4-1. *Conduct of town elections.* Town officers shall be elected on a nonpartisan basis and the results determined by plurality, as provided by N. C. General Statutes 163-292.

"ARTICLE V.
"ADMINISTRATION.

"Sec. 5-1. *Town to operate under mayor-council plan.* The town of Lucama operates under the mayor-council plan as provided in North Carolina General Statutes 160A, Article 7, Part 3."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Lucama and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated in this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. The following acts or portions of acts having served the purposes for which enacted or having been consolidated into this act, are hereby repealed:

Chapter 209, Private Laws of 1889, an act to incorporate the Town of Lucama;

Chapter 159, Private Laws of 1891, an act to amend the act incorporating the Town of Lucama;

Chapter 296, Private Laws of 1895, an act to amend the Charter of the Town of Lucama;

Chapter 244, Private Laws of 1909, an act to amend Chapter 159 of the Private Acts of 1891;

Chapter 637, Public Local Laws of 1913, an act to provide for election of cotton weighers;

Chapter 517, Public Local Laws of 1937, an act to amend the Charter of
1 Town of Lucama;

Chapter 562, 1953 Session Laws, an act amending Chapter 209 of the Private Laws of North Carolina, 1889, the same being the Charter of the Town of Lucama, in Wilson County relating to the elective officials of said town and their method of election;

Chapter 876, 1955 Session Laws, an act to increase the town limits of the town of Lucama in Wilson County.

Sec. 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 6. (a) All existing ordinances and resolutions of the Town of Lucama, and all existing rules or regulations of departments or agencies of the Town of Lucama, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified, or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Lucama or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 7. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. All laws or clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. B. 297 **CHAPTER 118**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF LENOIR AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Lenoir is hereby revised and consolidated to read as follows:

"The Charter of the City of Lenoir.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. *Incorporation.* The City of Lenoir, North Carolina, in the County of Caldwell, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Lenoir', hereinafter at times referred to as the 'city'.

"Sec. 1.2. *Powers.* The City of Lenoir shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the City of Lenoir, specifically, or upon municipal corporations, generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate limits.* The corporate limits of the City of Lenoir shall be those existing at the time of ratification of this Charter, as the same are set forth on an official map of the city, and as the same may be altered from time to time in accordance with law. The official map of the city showing the current boundaries of the city, entitled 'Map of the City of Lenoir, North Carolina', shall be maintained in the office of the city manager, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the city shall be made.

"Sec. 1.4 through 1.10. (Reserved.)

"ARTICLE II.

"MAYOR AND COUNCIL.

"Sec. 2.1. *Governing body.* The mayor and council, elected and constituted as herein set forth, shall be the governing body of the city. On behalf of the city, and in conformity with applicable laws, the mayor and council may provide for the exercise of all municipal powers, and shall be charged with the general government of the city.

"Sec. 2.2. *Council; composition; terms of office.* The city council shall be composed of seven members, each of whom shall be elected by and from the qualified voters of the city for terms of four years each in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Mayor; term of office; duties.* The mayor shall be elected by and from the qualified voters of the city in the manner provided by Article III of this Charter to serve for a term of two years, or until his successor is elected and qualified. The mayor shall be the official head of the city government and shall preside at all meetings of the council. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the council. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the city.

"Sec. 2.4. *Mayor pro tempore.* In accordance with applicable State laws, the council shall elect one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore shall serve in such capacity for a term of two years or until the expiration of his term of office as a member of the council, whichever first occurs.

"Sec. 2.5. *Meetings of the council.* In accordance with the General Statutes, the council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of city ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The enacting clause of all city ordinances shall be: "Be it ordained by the City Council of the City of Lenoir."

"Sec. 2.7. *Voting requirements; quorum.* Official action of the council shall, unless provided otherwise by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the council, is present. Vacant seats are to be subtracted from the normal council membership to determine the actual membership.

"Sec. 2.8. *Qualifications for office; vacancies.* The qualifications of governing body members and the filling of vacancies on the governing body shall be in accordance with applicable provisions of the General Statutes.

"Sec. 2.9. *Compensation of the mayor and council members.* The mayor shall receive for his services such salary as the city council shall by ordinance determine, and he shall receive no other compensation from the city. His salary shall not be increased or diminished during the term for which he is elected. The council may establish a salary for its members. Such salary may be reduced,

but no increase therein shall be made to take effect earlier than the beginning of the fiscal year opening 180 days or more after the increase is voted.

"Sec. 2.10 through 2.15. (Reserved.)

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. *Regular municipal elections; conduct and method of election.* Regular municipal elections shall be held in the city every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and members of the council shall be elected according to the nonpartisan primary and election method.

"Sec. 3.2. *Election of the mayor.* At the regular municipal election in 1977, and biennially thereafter, there shall be elected a mayor to serve a term of two years. The mayor shall be elected by all the voters of the city voting at large.

"Sec. 3.3. *Election of council members.* At the regular municipal election in 1977 and quadrennially thereafter, there shall be elected four (4) council members to serve terms of four years each. At the regular municipal elections in 1979 and quadrennially thereafter, there shall be elected three (3) council members to serve terms of four years each. Newly elected members of the council shall fill the seats of those council members whose terms are then expiring.

"Sec. 3.4 through 3.10. (Reserved.)

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. *Form of government.* The city shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *City manager.* The council shall appoint a city manager who shall be the head of the administrative branch of city government, and who shall be responsible to the council for the proper administration of the affairs of the city. The manager shall be appointed on the basis of merit only, and he shall serve at the pleasure of the council. In exercising his duties as chief administrator, the manager shall have the following powers and duties:

(a) He shall appoint and suspend or remove all city employees whose appointment or removal is not otherwise provided for by law, in accordance with such general personnel rules, regulations, policies, or ordinances as the council may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the council, except as otherwise provided by law.

(c) He shall attend all meetings of the council and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the city Charter and the ordinances, resolutions and regulations of the council are faithfully executed within the city.

(e) He shall prepare and submit the annual budget and capital program to the city.

(f) He shall annually submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of the fiscal year.

(g) He shall make any other reports that the council may require concerning the operations of the city departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the council.

"Sec. 4.3. *City attorney.* The council shall appoint a city attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the city attorney to prosecute and defend suits against the city; to advise the mayor, council and other city officials with respect to the affairs of the city; to draft all legal documents relating to the affairs of the city; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the city may be concerned; to attend meetings of the council; and to perform other duties required by law or as the council may direct.

"Sec. 4.4. *City clerk.* The manager shall appoint a city clerk to keep a journal of the proceedings of the council, to maintain in a safe place all records and documents pertaining to the affairs of the city, and to perform such other duties as may be required by law or as the council may direct.

"Sec. 4.5. *City finance officer.* The manager shall appoint a city finance officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. *City tax collector.* The manager shall appoint a city tax collector to collect all taxes, licenses, fees and other revenues accruing to the city, subject to the General Statutes, the provisions of this Charter and the ordinances of the city. The tax collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. *Consolidation of functions.* The city manager may consolidate any two or more positions of city manager, city clerk, tax collector and finance officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. *Other administrative officers and employees.* Consistent with applicable State laws, the council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the city government in order to promote the orderly and efficient administration of the affairs of the city.

"Sec. 4.9 through 4.15. (Reserved.)

"ARTICLE V.

"RETIREMENT AND PENSION FUNDS.

"Sec. 5.1. *Retirement system authorized.* A. The city council is hereby authorized to establish or provide for a retirement system to provide for the payment of benefits to its employees or to their beneficiaries, in the following cases:

(1) Retirement, because of age
(2) Disability
(3) Death

B. The retirement system shall include such officers and employees of the city as shall be determined by the council. The city shall contribute to the system in such amounts as it shall determine, in order to meet the liabilities

accruing because of personal services rendered to the city by its officers and employees; provided, however, that the system may also provide benefits which are based, partly or entirely, upon personal services rendered to the city prior to the establishment thereof, and the city may contribute the entire cost of benefits based on any such prior service. The city council may provide that employees shall share in the cost of financing the system, upon such terms as it deems advisable. The expense of administering the system shall be paid as provided by the city council and the city council shall appropriate each year sufficient revenue to provide for the expense of the administration.

C. The system shall be maintained on a solvent actuarial reserve basis for all benefits beginning at its inauguration date, excepting the present value of benefits based on prior service.

D. The contribution required to cover the cost of benefits based on prior service, if any, shall be sufficient to fund the liability for such prior service in not more than 40 years from the date of establishment of the system.

E. The ordinance may provide for the appointment or election of a retirement board or board of trustees, and for the delegation to such board of such powers and duties as may be deemed necessary to carry out the intent and purpose for which the system is established. If such a retirement board or board of trustees is provided for, the board shall consist of a member or members of the city council, an employee or employees entitled to participate in the system, and one or more citizens of the city not officially connected with the city, nor entitled to participate in the system.

F. The city may provide for the payment of one or more of the benefits enumerated in subsection B hereof by contracting with the governing body of any other municipality or municipalities in the State, with the United States Government or any of its agencies or departments, with the State of North Carolina or any of its agencies or departments, or may contract with any insurance company or other corporation for the performance of any service in connection with the establishment of such fund, or for the investment, care, or administration of such fund, or for any other service relating thereto.

The city or any other governing body, agency, insurance company, person, or corporation contracting with the city for the investment, care or administration of the retirement system may invest and reinvest the funds thereof in one or more of the types of securities or other investments authorized by Section 58-79 of the General Statutes of North Carolina, as amended, and by other State law, for the investment of assets of domestic life insurance companies.

G. Nothing in this section shall be construed to prohibit the city from providing or continuing to provide old age and survivors' insurance, or social security coverage, for its officers and employees as the same may be authorized by federal and State laws, either separately or in addition to the fund authorized herein, or any other retirement or pension plan or fund authorized by general law or local act.

"Sec. 5.2. *Firemen's supplemental retirement fund.* A. The board of trustees of the local firemen's relief fund of the City of Lenoir, as established in accordance with G.S. 118-6, hereinafter called the board of trustees, shall create and maintain a separate fund to be called the Lenoir Paid Firemen's Supplemental Retirement Fund, hereinafter called the supplemental retirement fund, and shall maintain books of account for such fund separate from the books of account of the firemen's local relief fund of the City of Lenoir

hereinafter called the local relief fund. The board of trustees shall pay into the supplemental retirement fund the funds prescribed by this section.

B. Notwithstanding the provisions of G.S. 118-7, the board of trustees of the local firemen's relief fund of the city shall:

(1) prior to July 1, 1974, transfer to the supplemental retirement fund all funds, including earnings on investments, of the local relief fund in excess of seventy-five thousand dollars ($75,000);

(2) at any time when the amount of funds in the local relief fund shall by reason of disbursements authorized by G.S. 118-7, be less than seventy-five thousand dollars ($75,000) transfer from the supplemental retirement fund to the local relief fund an amount sufficient to maintain in the local relief fund the sum of seventy-five thousand dollars ($75,000);

(3) as soon as practicable after July 1 of each year, divide the sum of the annual funds paid to the local relief fund by authority of G.S. 118-5, the income earned in the preceding fiscal year upon investments of funds belonging to the local relief fund and the income earned in the preceding fiscal year upon investments of funds belonging to the supplemental retirement fund into equal amounts and disburse the same as supplemental retirement benefits in accordance with subsection C hereof. Provided, however, in the event the total amount of these funds in any fiscal year exceeds the total of the benefit limits of seven hundred twenty dollars ($720.00) per annum per eligible person, as set forth in subsection C of this section such excess amount shall become a part of the supplemental retirement fund.

C. Each fully-paid active city fireman who retired after July 1, 1974, with 20 years or more service and has attained the age of 60 shall be entitled to and shall receive in each fiscal year following the fiscal year in which he retires an annual supplemental retirement benefit, provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of seven hundred twenty dollars ($720.00).

Any fireman of the city who is not otherwise entitled to supplemental retirement benefits under the first paragraph of this subsection shall nevertheless be entitled to such benefits in any fiscal year in which the board of trustees makes the following written findings of fact:

(1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the city a position of employment the normal duties of which he was capable of performing.

D. It is the intention of subsection C hereof to authorize the disbursement as supplemental retirement benefits only of the income derived in any fiscal year from funds received from subsection B, part (3). It is the intention of subsection B of this section to require that the funds paid into the supplemental retirement fund pursuant to parts (1) and (3) thereof shall be held in trust, and that no funds paid into the supplemental retirement fund pursuant to parts (1)

and (3) thereof or as a gift, grant, bequest, or donation to such fund shall ever be disbursed except as and when required by part (2).

E. The board of trustees is hereby authorized to invest any funds, either of the local relief fund or of the supplemental retirement fund, in any investment named in or authorized by G.S. 159-28.1, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the supplemental retirement fund in one or more of such investments.

F. The board of trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the supplemental retirement funds.

G. The board of trustees shall bond the treasurer of the local relief fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees shall pay from the local relief fund the premiums of the bond of the treasurer.

"ARTICLE VI.

"ALCOHOLIC BEVERAGE CONTROL.

"Sec. 6.1. *Election authorized on alcoholic beverages.* Upon a petition to the city council signed by residents of the city equal in number to fifteen percent (15%) of the number of votes cast by resident voters of the city in the last city election, all such petitioners being registered and qualified voters of the city, or, upon its own motion, the city council shall order an election to be held on the question of whether or not city alcoholic beverage control stores may be operated in the city; and if a majority of the votes cast in such an election shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the city, but if a majority of the votes cast in the election shall be against the operation of alcoholic beverage control stores, no such stores may be set up or operated in the city under the provisions of this Article.

"Sec. 6.2. *Election procedures.* The city council shall submit the question hereinabove mentioned and call a special election for the purpose of submitting such question within four (4) months after the receipt of the petition required by Section 6.1 of this Article, notwithstanding the provisions of any general or local laws to the contrary. In the event the special election is called it shall be held and conducted on the date fixed by the city council. A new registration of voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register in the alcoholic beverage control election shall be entitled to vote in such election. In the election a ballot shall be used upon which shall be printed on separate lines for each proposition, 'For City Alcoholic Beverage Control Stores' and 'Against City Alcoholic Beverage Control Stores'. Those favoring setting up and operating alcoholic beverage control stores in the City of Lenoir shall mark in the voting square to the left of the words, 'For City Alcoholic Beverage Control Stores', printed on the ballot and those opposed to city alcoholic beverage control stores shall mark in the square to the left of the words, 'Against City Alcoholic Beverage Control Stores'. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the governing body of the City of Lenoir, and the cost shall be paid from the general fund of the city.

"Sec. 6.3. *City board of alcoholic control may be created.* If the operation of city alcoholic beverage control stores is authorized under the provisions of this Article, the city council shall immediately create a city board of alcoholic control to be composed of a chairman and two (2) other members who shall be well known for their character, ability and business acumen. The board shall be known and designated as 'The City of Lenoir Board of Alcoholic Control'. The members and chairman of the board shall be designated by the mayor and council and a member designated as chairman shall serve for his first term a period of three (3) years. As to the other members, one (1) member shall serve for his first term a period of two (2) years, and the other members shall serve for his first term a period of one (1) year; and all terms shall begin with the date of their appointment. Thereafter, as the terms of the chairman and members expire, their successors in office shall serve for terms of three (3) years each, and until their successors are appointed and qualified. Any vacancy shall be filled by the city council for the unexpired term. Compensation of the members of the board of alcoholic control shall be fixed by the city council.

"Sec. 6.4. *Same; powers and duties.* The city board of alcoholic control shall have all the powers and duties imposed by G.S. 18A-17 on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in G.S. 18A-15. The board of alcoholic control and the operation of any city alcoholic beverage control stores authorized under the provisions of this Article shall be subject to and in pursuance with the provisions of Article 1 of Chapter 18A of the General Statutes of North Carolina except to the extent which the same may be in conflict with the provisions of this Article. Wherever the word 'county' board of alcoholic control appears in that Article, it shall include the City of Lenoir Board of Alcoholic Control. The city board of alcoholic control shall have authority to employ legal counsel and such other employees as it may deem wise, and to fix their compensation.

Sec. 6.5. *Same; financial administration.* Out of the gross profits derived from the operation of city alcoholic beverage control stores, there shall first be paid all costs and operating expenses. The net profits which remain shall be expended in the following manner:

(a) 5% for law enforcement purposes;

(b) 5% for educational programs on the excessive use of alcohol, and the rehabilitation of alcoholics;

(c) 10% to the county school administrative unit;

(d) the remainder to the city to be expended for any lawful purpose authorized to the city.

"Sec. 6.6. *Additional stores authorized.* The City of Lenoir Board of Alcoholic Control may authorize the establishment and operation of additional stores within the city if, in its discretion, it finds the same desirable.

"Sec. 6.7. *Subsequent elections.* If a subsequent election shall be held and at such election a majority of the votes cast shall be cast 'Against City Alcoholic Beverage Control Stores', the city alcoholic beverage control board shall, within 3 months after the canvassing of such votes and the declaration of the results thereof, close such stores and shall thereafter cease to operate the same, and within said three (3) months the city alcoholic beverage control board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said board and convert the same into cash

and turn the same over to the city finance officer. Thereafter, all public, public-local and private laws applicable to the sale of intoxicating beverages within the city in force and effect prior to the authorization to operate city alcoholic beverage control stores shall be in full force and effect the same as if such election had not been held, and until and unless another election is held under the provisions of this Article in which a majority of the votes cast shall be cast 'For City Alcoholic Beverage Control Stores'.

"ARTICLE VII.

"SPECIAL PROVISIONS.

"Sec. 7.1. *Assessments for street and sidewalk improvements; petition unnecessary.*

A. In addition to any authority which is now or may hereafter be granted by general law to the city for making street improvements, the city council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

B. The council may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by council as a fact:

(1) that the street improvement project does not exceed 1,200 linear feet, and

(2) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(3) that it is in the public interest to connect two streets, or portions of a street already improved, or

(4) that it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the city's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this section.

C. For the purposes of this section the term 'street improvement' shall refer to the initial improvement of an unimproved, unpaved street, including initial acquisition of rights-of-way, grading, surfacing, and the construction of curb and gutter and street drainage facilities. For the purposes of this section, the term 'sidewalk improvement' shall refer to the initial acquisition of rights-of-way, laying out, grading and surfacing of new sidewalks. The provisions of this section are not intended to refer to those activities that are normally included under the city's street maintenance program, such as street resurfacing and repairs, curb and gutter and sidewalk maintenance and repairs.

D. In addition to any authority which is now or may hereafter be granted by general law to the city for making sidewalk improvements, the city council is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements according to standards and specifications of the city, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of

Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the council may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this section, the city council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 7.2. *Power of eminent domain.* The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the city in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets, sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The city, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city, or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

"Sec. 7.3. *Supplemental authority to sell real and personal property.*

A. The city shall have the authority at all times to sell or exchange any real property belonging to the city after having advertised the same once a week for four (4) consecutive weeks in a newspaper published in the county, according to the procedure prescribed by the general laws of the State for the foreclosure of mortgages and deeds of trust under the power of sale contained therein; provided, that before any bid shall be deemed accepted or any sale made, or title passed by virtue of such sale, such sale shall be confirmed by the city council and the council may, in its discretion, refuse confirmation. When so authorized, a deed for such real estate may be executed by the mayor and attested by the city clerk, when the corporate seal of the city is attached; provided, however, this shall not apply to plots in the city cemetery except as to the manner of execution of the deed. In the sale of real property, the city is authorized to execute deeds in the usual form and containing full covenants of warranty.

B. The city council shall have the authority, in addition to the authority granted by G.S. 160A-266, to sell or to direct any of its officers or employees to sell any personal property, which the council has declared to be surplus property, in the following manner:

(1) without bids or advertisement, at private sale, if the property has a market value of five hundred dollars ($500.00) or less;

(2) to the highest bidder upon receipt of informal written bids, with only such advertisement as the council may direct, if the property has a market value of more than five hundred dollars ($500.00) but no more than two thousand dollars ($2,000); provided, that all such bids received shall be recorded on the minutes of the council;

(3) to the highest bidder upon receipt of sealed bids after one (1) week's public notice, if the property has a market value in excess of two thousand dollars ($2,000); provided, that all such sealed bid proposals shall be opened in public and recorded on the minutes of the council.

"Sec. 7.4. *Authority to regulate loudspeakers.* The city is authorized to regulate and restrict the use of loudspeakers, amplifying systems or public address systems within the corporate limits of the city and within a radius one mile therefrom. To this end, the city may adopt ordinances regulating the time for using or operating such systems, the volume of sound produced by such systems, and may issue or deny permits for loudspeaker, amplifier and public address system use.

"Sec. 7.5 through 7.15. (Reserved.)"

Sec. 2. The purpose of this act is to revise the Charter of the City of Lenoir and to consolidate herein certain acts concerning the property, affairs, and government of the city. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) any acts concerning the property, affairs, or government of public schools in the City of Lenoir;

(b) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 12, Public Laws of 1841
Chapter 326, Private Laws of 1851
Chapter 246, Private Laws 1855
Chapter 222, Private Laws 1859
Chapter 24, Private Laws 1866
Chapter 31, Private Laws 1869
Chapter 124, Public Laws 1870
Chapter 45, Private Laws 1870
Chapter 58, Private Laws 1874
Chapter 65, Private Laws, 1875
Chapter 127, Private Laws 1883
Chapter 23, Private Laws 1885
Chapter 479, Public Laws 1897
Chapter 221, Private Laws 1901
Chapter 315, Private Laws 1901
Chapter 140, Private Laws 1903
Chapter 769, Public Laws 1903

Chapter 83, Private Laws 1907
Chapter 167, Private Laws 1905
Chapter 26, Private Laws 1909
Chapter 37, Private Laws 1909
Chapter 83, Private Laws 1909
Chapter 248, Private Laws 1913
Chapter 164, Private Laws 1915
Chapter 202, Private Laws 1915
Chapter 104, Private Laws 1917
Chapter 1, Private Laws 1923
Chapter 236, Private Laws 1923
Chapter 266, Private Laws 1923
Chapter 42, Private Laws 1924
Chapter 183, Private Laws 1927
Chapter 41, Private Laws 1929
Chapter 89, Private Laws 1931
Chapter 107, Private Laws 1933
Chapter 173, Private Laws 1933
Chapter 200, Private Laws 1933
Chapter 68, Private Laws 1935
Chapter 131, Public-Local Laws 1941
Chapter 615, Session Laws 1947
Chapter 445, Session Laws 1951
Chapter 398, Session Laws 1963
Chapter 487, Session Laws 1967
Chapter 8, Session Laws 1969
Chapter 978, Session Laws 1971

Sec. 5. The following act, having served the purpose for which it was enacted, is hereby repealed to the extent of its application to the City of Lenoir:

Chapter 1069, Session Laws 1945.

Sec. 6. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 7. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 8. All existing ordinances and resolutions of the City of Lenoir and all existing rules or regulations of departments or agencies of the City of Lenoir, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

Sec. 9. No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act

by or against the City of Lenoir or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 10. If any of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 11. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 12. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 13. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. B. 326 CHAPTER 119

AN ACT TO GIVE PRIORITY TREATMENT TO THE PHYSICALLY HANDICAPPED AND TO CARPOOLERS AND VANPOOLERS IN ASSIGNING PARKING SPACES IN STATE-OWNED LOTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-340(18) as it appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3C is amended on line 9 immediately preceding the last sentence by inserting a new sentence to read as follows:

"Such guidelines shall give first priority treatment to the physically handicapped and to carpoolers and vanpoolers, however, first priority shall be given to those on call for duty at a time other than normal working hours."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. B. 340 CHAPTER 120

AN ACT DIRECTING THE WILDLIFE COMMISSION TO ENFORCE ALL LOCAL LAWS RESPECTING WILDLIFE.

The General Assembly of North Carolina enacts:

Section 1. It shall be the duty and responsibility of the North Carolina Wildlife Resources Commission to enforce all local acts heretofore or hereinafter enacted respecting game animals, furbearing animals and birds, including local acts which prohibit or restrict hunting from, to or across public roads and highways and including local acts which prohibit or restrict the taking of specified animals or birds.

Sec. 2. Provided, however, that the provisions of this act shall not apply on the lands of the Eastern Band of Cherokee Indians.

Sec. 3. The provisions of this act shall not be construed to require the hiring of additional personnel by the North Carolina Wildlife Resources Commission.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

S. B. 159 CHAPTER 121

AN ACT TO AMEND G.S. 7A-133 BY ADDING AN ADDITIONAL SEAT OF COURT FOR DISTRICT COURT IN LENOIR COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-133 as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by adding to the table appearing therein an additional seat of court for the Eighth District at La Grange, North Carolina, so that the sixth column of the table for District 8 will read:

"Mount Olive
La Grange"

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

S. B. 161 CHAPTER 122

AN ACT TO AMEND G.S. 7A-133 BY ADDING AN ADDITIONAL SEAT OF COURT FOR DISTRICT COURT IN ROBESON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-133 as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by adding to the table appearing therein an additional seat of court for the Sixteenth District at Pembroke, North Carolina, so that the sixth column of the table for District 16 will read:

"Fairmont
Maxton
Pembroke
Red Springs
Rowland
St. Pauls".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

S. B. 113 CHAPTER 123

AN ACT TO AMEND G.S. 130-166.18 RELATING TO SOLID WASTE DISPOSAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-166.18 as the same appears in the 1975 Cumulative Supplement to Volume 3B is hereby amended by adding a new subdivision (4) thereto to read as follows:

"(4) Delegate authority and responsibility to local governments, including counties, to perform all or any portion of a solid waste management program within the jurisdictional area of the local government; provided, that no authority over or control of the operations or properties of one local government shall be delegated to any other local government."

Sec. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1977.

H. B. 284 CHAPTER 124

AN ACT TO VALIDATE ACTS OF ASSISTANT AND DEPUTY REGISTERS OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. All acts and duties heretofore performed by any and all Assistant or Deputy Registers of Deeds, who were appointed but who were not sworn into office or who were sworn into office after their duties commenced, shall be and the same are hereby validated, ratified, and confirmed to all intents and purposes as if performed by Assistant or Deputy Registers of Deeds who were theretofore formally appointed and sworn into office, as required by G.S. 161-6, or as required by any other provision of law.

Sec. 2. This act shall not affect pending litigation.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of March, 1977.

H. B. 81 CHAPTER 125

AN ACT TO AMEND G.S. 20-179 TO EXPAND THE CATEGORY OF JUDGES WHO MAY RECEIVE LIMITED DRIVING PRIVILEGE APPLICATIONS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 20-179(b)(3), as the same appears in the 1975 Cumulative Supplement to Volume 1C of the General Statutes, is rewritten to read as follows:

"Upon conviction of such offense outside the jurisdiction of this State the person so convicted may apply to the presiding or resident judge of the superior court or district court judge of the district in which he resides for limited driving privileges herein before defined."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1977.

H. B. 102 CHAPTER 126

AN ACT TO GIVE SECURITY GUARDS PERMISSION TO USE MACE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.6 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is amended by inserting in line 7 after the words "of this State" and before the words "or for" the following:

"and security guards sanctioned under Chapters 74A and 74B of the General Statutes provided such security guards shall have received training according to standards prescribed by the State Bureau of Investigation."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1977.

H. B. 300 CHAPTER 127

AN ACT TO REPEAL G.S. 130-58.1 CONCERNING NEGLECTED ILLEGITIMATE CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-58.1 is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1977.

S. B. 191 CHAPTER 128

AN ACT TO AMEND G.S. 58-291 BY INCREASING THE MAXIMUM AMOUNT OF DEATH BENEFITS PAYABLE BY FRATERNAL SOCIETIES EXEMPT FROM ARTICLE 28, CHAPTER 58.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-291, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by deleting the words "fifteen hundred dollars ($1,500)" in line 7 and substituting in lieu thereof the words "two thousand dollars ($2,000)."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1977.

H. B. 35 CHAPTER 129

AN ACT TO AUTHORIZE ABSENTEE BALLOTS IN BUNCOMBE COUNTY IN ELECTIONS CONDUCTED BY THE COUNTY BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Any qualified voter of Buncombe County or special district of Buncombe County who is qualified to vote by absentee ballot under subsection (a) of G.S. 163-226 is authorized to vote by absentee ballot in Buncombe County or special district of Buncombe County where the voter resides, in any primary or election, conducted by the county board of elections, except ABC elections, sanitary district elections, fire district elections or soil and water conservation district elections.

Sec. 2. This act shall apply only to Buncombe County.

Sec. 3. This act shall become effective upon ratification and shall expire on July 1, 1977.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 48 CHAPTER 130

AN ACT TO AMEND G.S. 163-74 RELATING TO PARTY AFFILIATION AND CHANGE OF PARTY AFFILIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-74 is amended by rewriting to read as follows:

"§ 163-74. *Record of political party affiliation or unaffiliated status; changing recorded affiliation; correcting erroneous record.*—(a) Every person who registers to vote shall, at the time application is made, (1) state his desired political party affiliation or (2) state that he wishes to be recorded as an 'unaffiliated' voter. The person before whom the voter is registering shall record the affiliation requested by the voter. Such recorded party affiliation, or unaffiliated designation, shall thereafter be permanent unless, or until, the registrant changes it under the provisions of subsection (b) of this section.

If the applicant (registrant) refuses to declare his party affiliation upon request, or if the applicant refuses further to state that he desires to be recorded as unaffiliated, then the registrar or other officer shall inform the applicant that although he may register, his record shall be designated 'unaffiliated' and he shall not be eligible to vote in any political party primary but may vote in any general election.

(b) Change of party affiliation or unaffiliated status: No registered elector shall be permitted to change the record of his party affiliation or unaffiliated status for a primary, second primary or special or general election after the close of the registration books immediately prior to any such election. Any registrant who desires to have the record of his party affiliation or unaffiliated status changed on the registration book shall, not less than 21 days (not including Saturdays and Sundays) before the election go to the chairman or the executive secretary of the county board of elections or to other registration officials specified in G.S. 163-80 and request that the change be made. Before being permitted to have the change made, the chairman, executive secretary or other

registration official shall require the registrant to take the following oath, and it shall be the duty of the elections officer to administer it:

(1) If the voter desires to change from one political party to another, or from unaffiliated to a political party:

I, _____, do solemnly swear (or affirm) that I desire in good faith to change my party affiliation from the _____ Party (or from unaffiliated status) to the _____ Party, and that such change of affiliation be made on the registration records in the manner provided by law, so help me, God.

(2) If the voter desires to change his affiliation with any political party to unaffiliated status:

I, _____, do solemnly swear (or affirm) that I desire in good faith to change my party affiliation with the _____ Party to unaffiliated, and that such change of affiliation be made on the registration records in the manner provided by law, so help me, God.

Upon receipt of the required oath, the county board of elections shall immediately change the record of the registrant's party affiliation, or unaffiliated status, to conform to that stated in the oath. Thereafter the voter shall be considered registered and qualified to vote in accordance with the effected change.

(c) Correction of erroneous record of party affiliation: If at any time the chairman or executive secretary of the county board of elections shall be satisfied that an error has been made in designating the party affiliation of any voter on the registration records, then the chairman or executive secretary of the county board of elections shall make the necessary correction after first administering to the voter the following oath:

I, _____, do solemnly swear (or affirm) that I desire in good faith to have the erroneous entry of my affiliation with the _____ Party, or my unaffiliated status on the registration records corrected in the manner provided by law to show that I affiliate with the _____ Party (or that I elect to be recorded as an unaffiliated voter), so help me, God."

Sec. 2. All persons who are recorded on the registration books as "Independent" or "No Party" designees, as of the date of ratification of this act, shall be presumed to be recorded as "unaffiliated" unless and until such persons request, in the manner provided by law, that their registration record be changed. The State Board of Elections shall issue appropriate directives to each county board of elections to effect compliance with this section.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 157 CHAPTER 131

AN ACT TO VALIDATE THE APPLICATION OF RURAL FIRE PROTECTION DISTRICT FUNDS TO RESCUE AND AMBULANCE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Article 3A of General Statutes Chapter 69 is amended by adding a new section to read:

"§ 69-25.17. *Validation of fire protection funds appropriated in providing rescue and ambulance services.*—All prior appropriations and expenditures by any county board of commissioners of funds derived from taxes levied in rural fire protection districts, but used to provide rescue and ambulance services within said districts, are hereby approved, confirmed, validated, and declared to be proper, authorized, and legal."

Sec. 2. This act shall not affect pending litigation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 244 CHAPTER 132

AN ACT AMENDING ARTICLE 35 OF CHAPTER 106 RELATING TO PUBLIC LIVESTOCK MARKETS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-406 is amended by rewriting the second sentence of the last paragraph thereof as follows:

"If, after the hearing, at which any person may appear in support or opposition thereto, the North Carolina Public Livestock Market Advisory Board finds that the Public Livestock Market for which a permit or license is sought fulfills the requirements of all applicable laws, it shall recommend to the commissioner that a permit be issued to the applicant."

Sec. 2. G.S. 106-406 is further amended by adding at the end of the second paragraph the following:

"There shall be an annual renewal fee of one hundred dollars ($100.00) for each year of operation thereafter."

Sec. 3. G.S. 106-406 is further amended by rewriting the third sentence in the third paragraph as follows:

"Upon receipt of all required information, the commissioner shall issue a license or fix the date of a hearing on said application, to be held in Raleigh."

Sec. 4. G.S. 106-407.1 is amended by striking the last paragraph thereof in its entirety and adding the following sentence to the third paragraph thereof:

"Compensation, subsistence and travel allowances authorized for the board members shall be paid from fees collected pursuant to this Article."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 374

CHAPTER 133

AN ACT TO AMEND THE HENDERSON FIREMEN'S SUPPLEMENTAL RETIREMENT SYSTEM TO LOWER THE RETIREMENT AGE TO 55.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 810 of the 1959 Session Laws is hereby amended on lines 10, 29, 33, and 51 thereof by deleting the words and figures "sixty (60)" and inserting in lieu thereof the words and figures "fifty-five (55)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 386

CHAPTER 134

AN ACT AUTHORIZING THE CITY OF CHARLOTTE AND CABARRUS MEMORIAL HOSPITAL TO SELL THEIR UNDIVIDED INTEREST IN CERTAIN PROPERTY OF AN OUT-OF-STATE CORPORATION.

Whereas, the City of Charlotte, North Carolina, owned 51 shares out of a total 2,970 shares of common stock of Imperial Cotton Mills, a Georgia corporation of Eatonton, Georgia; and

Whereas, Cabarrus Memorial Hospital owned 927 shares out of a total of 2,970 shares of common stock of Imperial Cotton Mills, a Georgia corporation of Eatonton, Georgia; and

Whereas, the aforesaid Imperial Cotton Mills has been dissolved and liquidated; that the shareholders of the corporation have been paid cash dividends and, in addition to the cash dividends, certain real and personal property which the corporation was unable to convert into cash have been distributed to the shareholders in proportion to their interests therein; and

Whereas, all of the shareholders except the City of Charlotte have appointed trustees to sell the remaining property at public or private sale, or partly by public sale and partly by private sale, in the sole discretion of the trustees, and to distribute the net proceeds, after the payment of all expenses, to the shareholders in proportion to their interests therein; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The purpose and intent of this act is to authorize both the City of Charlotte and Cabarrus Memorial Hospital to sell and dispose of their undivided interests (51/2970th and 927/2970th, respectively) in certain property of an out-of-state corporation by private negotiation and sale since it is impractical to dispose of such small undivided interests by any method prescribed in G.S. 160A-266 other than by private negotiation and sale.

Sec. 2. Notwithstanding the limitations prescribed in G.S. 160A-266, the City of Charlotte is hereby authorized to sell at private sale or to appoint trustees to sell its 51/2970th undivided interest, and Cabarrus Memorial Hospital is hereby authorized to sell at private sale or to appoint trustees to sell its 927/2970th undivided interest in all of the property of Imperial Cotton Mills, a Georgia corporation of Eatonton, Georgia, under the procedure set forth in G.S. 160A-267.

Sec. 3. This act shall apply to the City of Charlotte and Cabarrus Memorial Hospital only.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 458 CHAPTER 135

AN ACT TO WAIVE COMPLIANCE WITH CERTAIN STATUTES IN THE CONSTRUCTION OF WAKE COUNTY MEDICAL CENTER PARKING DECK.

The General Assembly of North Carolina enacts:

Section 1. The Wake County Board of County Commissioners and the Wake County Hospital System, Inc., are authorized to enter into a contract to construct a parking structure at the Wake County Medical Center in accordance with the request for bids, notice and conditions as advertised, notwithstanding the provisions of Article 8 of Chapter 143, Chapter 133, Chapter 83, Chapter 87, and Chapter 89C of the General Statutes. All acts heretofore taken in connection with the contract for the construction of the parking deck at the Wake County Medical Center are hereby ratified and validated. Provided, however, that the architect retained by Wake County or Wake County Hospital System, Inc., shall certify compliance with the plans and specifications as provided by Chapter 133 of the General Statutes.

Sec. 2. This act shall apply only to Wake County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 469 CHAPTER 136

AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO RENT OR LEASE CERTAIN PROPERTY FOR A PERIOD OF MORE THAN 10 YEARS WITHOUT FOLLOWING THE PROCEDURES REQUIRED FOR SALE OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. The City of Salisbury is hereby authorized to rent or lease its property located at 117 West Fisher Street, Salisbury, North Carolina, for a period of more than 10 years without following the procedures required for the sale of real property as provided in the last sentence of G.S. 160A-272.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 481 CHAPTER 137

AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF BUNCOMBE COUNTY TO APPROPRIATE FOR THE USE OF ELIADA HOME FOR CHILDREN IN BUNCOMBE COUNTY A SUM NOT IN EXCESS OF TWENTY THOUSAND DOLLARS PER YEAR.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Buncombe County be and it is hereby authorized and empowered to appropriate and pay to the Eliada Home for Children in Buncombe County a sum which shall not be in excess of twenty thousand dollars ($20,000) per year during each fiscal year of the biennium 1977-1979.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 491 CHAPTER 138

AN ACT TO PLACE ASHE, BEAUFORT AND HYDE COUNTIES UNDER G.S. 44-51.8 RELATING TO ATTACHMENT OR GARNISHMENT FOR AMBULANCE SERVICE IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8 is amended by adding the following counties in appropriate alphabetical order: Ashe, Beaufort and Hyde.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 498 CHAPTER 139

AN ACT AUTHORIZING THE MEMBERS OF THE NEW BERN CITY SCHOOL DISTRICT BOARD OF EDUCATION TO FIX THEIR OWN COMPENSATION NOT TO EXCEED ONE HUNDRED DOLLARS PER MONTH FOR THE CHAIRMAN AND FIFTY DOLLARS PER MONTH FOR EACH OTHER MEMBER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1170 of the 1973 Session Laws is hereby repealed.

Sec. 2. Any provision of G.S. 115-29 notwithstanding, the members of the New Bern City School District Board of Education shall fix their own compensation not to exceed one hundred dollars ($100.00) per month for the chairman and fifty dollars ($50.00) per month for each other member.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 243 **CHAPTER 140**

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE IN MECKLENBURG COUNTY RELATING TO THE TERMS OF OFFICE OF THE MEMBERS OF THE AUDITORIUM-COLISEUM-CIVIC CENTER AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 713 of the 1965 Session Laws is hereby amended in Chapter V, Subchapter B, Section 5.21 by changing "five" to "three" in line 10 and by adding a new sentence at the end of that sentence to read as follows: "No member shall serve more than two full consecutive terms."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 244 **CHAPTER 141**

AN ACT TO AMEND CHAPTER 713 OF THE 1965 SESSION LAWS, AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE, TO CHANGE THE TERMS OF THE MEMBERS OF THE CHARLOTTE PARKS AND RECREATION COMMISSION FROM FIVE TO THREE YEARS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 713 of the 1965 Session Laws is hereby amended in Chapter V, Subchapter C, Section 5.42, by changing "five" to "three" in line 8 and by adding a new sentence at the end of that sentence to read as follows: "No member shall serve more than two full consecutive terms."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 251 **CHAPTER 142**

AN ACT TO AMEND CHAPTER 416 OF THE 1973 SESSION LAWS TO ELIMINATE THE GENERAL TERM "CAPITAL PROJECTS", AND TO SPECIFY THOSE PROJECTS WHICH SHALL BE SUBJECT TO REVIEW BY THE CHARLOTTE-MECKLENBURG PLANNING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 416 of the 1973 Session Laws of North Carolina is hereby amended by deleting Sections 1 and 2 in their entirety and substituting in lieu thereof new sections to read as follows:

"Section 1. No governmental unit in Mecklenburg County, including independent boards, agencies, commissions, authorities, special districts and local public institutions shall authorize or construct any project listed below, or acquire or sell any real property, exclusive of easements, until the location and extent thereof has been submitted to the Charlotte-Mecklenburg Planning Commission for its review.

Project, as used in this act, shall include, but not be limited to streets; widening of existing streets, exclusive of widenings confined to intersection improvements; bikeways; transit stations and terminals; busways; public buildings, such as auditoriums, stadiums, hospitals, schools, fire stations, neighborhood centers, community centers, service garages, court buildings, exclusive of additions that may be made to existing structures, and exclusive of minor buildings auxiliary to such public buildings; parks and playgrounds; public housing and housing wholly or partially supported by financing from governmental agencies within the jurisdiction of this act, exclusive of improvements to established housing projects; storage yards; and water and sewer utility systems including service lines 10 inches or larger, in areas that are not served by existing water distribution or sewage collection systems.

Sec. 2. The Charlotte-Mecklenburg Planning Commission shall have 30 days from the date of submission to review the project or action and to make whatever response, if any, to said project or action. A longer period of review may be granted by the instrumentality making the submission."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 303 CHAPTER 143

AN ACT TO REPEAL THE TILE CONTRACTORS' ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-28 through G.S. 87-38, inclusive, are hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 314 CHAPTER 144

AN ACT TO AMEND G.S. 14-111.2 TO INCLUDE ASHE COUNTY AMONG THOSE NAMED COUNTIES IN WHICH IT SHALL BE A MISDEMEANOR TO OBTAIN AMBULANCE SERVICES WITHOUT INTENDING TO PAY THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-111.2, as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by adding the word and punctuation "Ashe," after the word and punctuation "Anson," in the first line of the second paragraph.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 322 **CHAPTER 145**

AN ACT TO AMEND CHAPTER 101, PRIVATE LAWS OF 1935 TO CREATE THE KANNAPOLIS BOARD OF EDUCATION AND TO PROVIDE FOR THE ELECTION OF ITS MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. That Chapter 101, Private Laws of 1935 relating to the creation and administration of the Kannapolis Administrative Unit be and the same is hereby rewritten to read as follows:

"Section 1. *Kannapolis Administrative Unit Declared.* The Kannapolis school district, as has been defined by the Boards of Education of Cabarrus and Rowan Counties and approved by the State Board of Education, is hereby declared to be an administrative unit within the contemplation of the General Statutes of North Carolina, and the control and operation of the public schools within said district shall hereinafter be vested in a board of education entitled the 'Kannapolis Board of Education'.

Sec. 2. *Change of Boundaries.* The boundaries of said administrative unit within either county may be changed from time to time by the recommendation of the Kannapolis Board of Education and the approval of the Cabarrus Board of Education or the Rowan Board of Education, depending on which county is affected by the change, and of the State Board of Education.

Sec. 3. *Members of the Board; Terms of Office.* The Kannapolis Board of Education shall continue to consist of five members. The terms of office of all present members are hereby extended to the first Monday in the month next following the primary election for county offices in 1978. In addition, the terms of office of Joe L. Mingo, Henry H. Duncan and James N. Moser are hereby extended to said Monday in 1980. The successors of these members shall be elected for terms of four years each as hereinafter provided.

Sec. 4. *Members of Board; Elections.* For the purpose of electing members of the Kannapolis Board of Education, the territorial area of the Kannapolis school district shall consist of two residence areas as follows: Residence Area No. 1 shall consist of that part of the Kannapolis school district which lies in Cabarrus County, and Residence Area No. 2 shall consist of that part of the school district which lies in Rowan County. Four members of the Kannapolis Board of Education shall reside in Residence Area No. 1 and one member shall reside in Residence Area No. 2.

At the time of the regular primary election to be held for county officers of Cabarrus County in 1978, there shall be elected two members from Residence Area No. 1 to the Kannapolis Board of Education, who shall serve for terms of four years. Their term of office shall begin on the first Monday in the month next following the primary election in 1978.

At the time of the regular primary election for county offices of Cabarrus County in 1980, two members shall be elected from Residence Area No. 1 and one member from Residence Area No. 2 to the Board of Education who shall serve for terms of four years. Their term of office shall begin on the first Monday in the month next following the primary election.

Successors shall be elected at the time of the regular primary held for county offices as each member's term expires, and members elected shall take office on the first Monday in the month next following the primary election, and shall serve terms of four years.

The candidates from each residence area, equal to the number of positions to be filled from that area, who receive the highest number of votes cast for candidate from that area, shall be declared elected.

The election shall be nonpartisan and no primary or run-off election shall be held. Candidates shall file notice of candidacy at the same time as candidates for county offices file for the primary.

The Board of Elections of Cabarrus County shall hold and conduct the election for members of the Kannapolis Board of Education throughout the school district and the Boards of Elections for Cabarrus and Rowan Counties shall cooperate in working out the administrative details for the proper conduct of said election in accordance with procedures approved by the State Board of Elections.

All qualified voters of the Kannapolis School Administrative Unit shall be eligible to vote for the members of the school board. All candidates must reside in the school district and in the residence area for which they seek election.

Sec. 5. *Members of Board; Qualifications.* Any qualified voter of the Kannapolis School Administrative Unit may file as a candidate for the Kannapolis Board of Education. Other qualifications shall include those prescribed by law for members of county and city boards of education.

Sec. 6. *Members of Board; Vacancies.* Vacancies on said board occurring by reason of death, resignation or otherwise than by expiration of the term of office shall be filled for the unexpired term by appointment of the remaining members of the board, and the person appointed must be a resident of the residence area from which the member causing the vacancy was elected.

Sec. 7. *Members of the Board; Chairman.* At the first regular meeting after the newly elected members have qualified, the board shall organize by electing from its members a chairman who shall preside at the meetings of the board. The superintendent of schools shall be ex officio secretary to the board and such person shall keep the minutes of the meetings of the board, provided that said superintendent shall have no vote.

Sec. 8. *Powers and Duties.* The Kannapolis Board of Education is hereby vested with all the authority, rights, powers and duties which are now or may hereafter be granted to city or county school administrative units under the General Statutes of North Carolina.

Sec. 9. *Title to School Property.* The title to all public school property in the Kannapolis Administrative School Unit shall rest in the Kannapolis Board of Education; and the Board of Education of Cabarrus County and the Board of Education of Rowan County are hereby respectively authorized and directed to convey to the Kannapolis Board of Education all school property and all interest therein, situated within said administrative school unit, the legal title to which school property now vests in the Board of Education of Cabarrus County and the Board of Education of Rowan County respectively, for the use and benefit of the Kannapolis Board of Education; and the title to all public school property hereafter acquired within said unit shall be taken in the name of the Kannapolis Board of Education.

Sec. 10. All laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 352 **CHAPTER 146**

AN ACT TO AMEND G.S. 95-17 TO EXEMPT RETAIL AND WHOLESALE FLORISTS AND THEIR EMPLOYEES FROM THE PROVISIONS OF THE MAXIMUM HOUR LAW DURING THE WEEK PRIOR TO AND INCLUDING VALENTINE'S DAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-17 is hereby amended by inserting the words "one week prior to and including Valentine's Day" between the words "Christmas" and "and" in the last line thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 518 **CHAPTER 147**

AN ACT TO ALLOW FORSYTH COUNTY HOSPITAL AUTHORITY, INC., AND WAKE COUNTY HOSPITAL SYSTEM, INC., TO BE SELF-INSURED OR TO PURCHASE INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. The Forsyth County Hospital Authority, Inc., and the Wake County Hospital System, Inc., nonprofit corporations established pursuant to Chapter 55A of the North Carolina General Statutes, are hereby authorized to self-insure or purchase insurance pursuant to the provisions of G.S. 97-7 and to be included with the municipal corporations, political subdivisions, and subordinate governmental agencies that self-insure or purchase insurance in accordance with G.S. 97-7.

Sec. 2. This act shall apply only to Wake County and Forsyth County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 67 **CHAPTER 148**

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-11(a) as the same appears in the 1975 Cumulative Supplement to Volume 1D is hereby amended on line 5 by deleting the word "creditor" and inserting in lieu thereof the word "debtor".

Sec. 2. G.S. 113-155(f) as the same appears in the 1975 Replacement Volume 3A is hereby amended on line 3 by deleting the words "an oyster and clam" and inserting in lieu thereof the words "a land and sell".

Sec. 3. G.S. 143-58 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 8 and on line 11 by deleting the words "or equipment" and inserting in lieu thereof the words "equipment, printing or services".

Sec. 4. The following amendments are made to Chapter 74A of the General Statutes as the same appears in the 1975 Replacement Volume 2C.

(a) G.S. 74A-1 is hereby amended in the catchline and on lines 6 and 7 by deleting the word "Governor" and inserting in lieu thereof the words "Attorney General".

(b) G.S. 74A-2(c) is hereby amended on line 2 by deleting the word "Governor's" and inserting in lieu thereof the words "Attorney General's".

(c) G.S. 74A-5 is hereby amended on line 3 by deleting the word "Governor" and inserting in lieu thereof the words "Attorney General".

Sec. 5. G.S. 153A-149(c)(26) as the same appears in the 1975 Cumulative Supplement to Volume 3C is hereby amended by deleting the citation to "Article 17" and inserting in lieu thereof a citation to "Article 18".

Sec. 6. G.S. 160A-38(h) as the same appears in the 1976 Replacement Volume 3D is hereby amended by deleting the words "Supreme Court" and inserting in lieu thereof the words "Court of Appeals".

Sec. 7. G.S. 160A-38(i) as the same appears in the 1976 Replacement Volume 3D is hereby amended by deleting the words "Superior or Supreme Court" and inserting in lieu thereof the words "superior court, Court of Appeals or Supreme Court".

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 170 CHAPTER 149

AN ACT TO AMEND G.S. 18A-52 BY ADDING A NEW SUBSECTION DEFINING "RESTAURANT".

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-52 is hereby amended by adding a new subsection, subsection "(k)", which shall read as follows:

"(k) For the purposes of this section a 'restaurant' shall mean a business having a kitchen facility and a seating capacity of 36 persons or greater and which is engaged primarily and substantially in preparing and serving meals. Provided, that the State Board of Alcoholic Control shall have broad power to examine the type and nature of the business and the combination and location of separate or affiliated businesses at the same location to determine if the establishment is a bona fide restaurant."

Sec. 2. This act shall apply only to those counties or municipalities wherein elections are held under G.S. 18A-52 subsequent to the ratification of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 221 **CHAPTER 150**

AN ACT TO CORRECT A SPELLING ERROR IN 1977 SESSION LAWS CHAPTER 18 WHICH REPEALS MISDEMEANOR TREATMENT OF VIOLATION OF ABC BOARD RULES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18 of the 1977 Session Laws of North Carolina is amended on page 1, in line 6 of Section 3, by replacing "confiction" with "conviction".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 231 **CHAPTER 151**

AN ACT TO REPEAL CERTAIN LOCAL ACTS RELATING TO THE CHAIRMAN OF THE BOARD OF COMMISSIONERS OF TRANSYLVANIA COUNTY, AND LOCAL ACTS SETTING THE COMPENSATION OF OFFICIALS AND EMPLOYEES OF THE COUNTY AND TO PROVIDE THAT THE BOARD OF COMMISSIONERS SHALL BE SUBJECT TO CHAPTER 153A OF THE GENERAL STATUTES OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 922, Session Laws of 1969, and all other local and special acts fixing the compensation of elected or appointive officers or employees of Transylvania County are hereby repealed.

The Board of County Commissioners shall have all power and authority conferred upon such board by Chapter 153A of the General Statutes except as otherwise provided in this act.

Sec. 2. The Board of County Commissioners shall, in preparing and adopting the budget for the fiscal years beginning July 1, 1977, fix the compensation for all county officers and employees, whether elected or appointed.

Sec. 3. This act shall become effective upon ratification for the purpose of preparing the county budget for the fiscal year beginning July 1, 1977, and shall become effective for all other purposes on July 1, 1977.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 238 **CHAPTER 152**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF HAVELOCK, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 952, Session Laws of 1959, is amended by rewriting Section 3 thereof to read as follows:

"Sec. 3. Governing body generally; elections and terms of office; vacancies in offices. (a) The government of the City of Havelock shall be vested in a mayor and a board of commissioners made up of five members. Regular elections shall be held biennially to elect a mayor for a term of two years and, as their terms

expire, commissioners for terms of four years. In the regular election in 1977, and quadrennially thereafter, there shall be elected two commissioners; and in the regular election in 1979, and quadrennially thereafter, there shall be elected three commissioners. Voters in each regular election shall be entitled to one vote for the office of mayor and as many votes for the offices of commissioner as there are full terms for commissioner to be filled pursuant to this subparagraph. The candidate for mayor who receives the highest number of votes shall be declared elected; and candidates for commissioner, equal in number to the number of offices to be filled, who receive the highest number of votes, shall be declared elected.

(b) Any vacancy in the office of mayor shall be filled by appointment of the board of commissioners for the remainder of the unexpired term.

(c) If a vacancy, for any reason, occurs on the board of commissioners, the remaining members shall, within 30 days, appoint a qualified person to fill the vacancy as provided herein. If the vacancy occurs in the first two years of a four-year term, and more than 30 days prior to the regular municipal election, the person appointed shall serve until the statutory organizational meeting of the board after the election. At the regular municipal election, a person shall be elected for the unexpired term, said term to begin on the date of the organizational meeting. A vacancy occurring otherwise shall be filled for the unexpired term.

(d) The board of commissioners, in acting pursuant to subparagraph (c) of this section to fill a vacancy, shall make its appointment from among those unelected candidates for commissioner in the immediately preceding regular election, who each received total votes in excess of one-half of the average number of total votes cast in such election for those candidates who were elected, appointment to be made of the first then eligible candidate as taken in the order of the highest number of votes received in the foregoing election; and provided that if there is no candidate so eligible for appointment that the board of commissioners shall make its appointment to fill the vacancy from among all eligible citizens."

Sec. 2. Chapter 94, Session Laws of 1971, is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. B. 240

CHAPTER 153

AN ACT TO ALLOW NEW HANOVER AND PENDER COUNTY TO UNDERTAKE NAVIGATION PROJECTS AND TO ASSESS THE BENEFITTED PROPERTY FOR THE COST THEREOF.

The General Assembly of North Carolina enacts:

Section 1. The counties of New Hanover and Pender and all of the municipalities therein are authorized to undertake navigation projects for the purpose of improving navigation or creating navigable waterways within their boundaries; provided, that said counties or municipalities must finance the entire cost of any such project by special assessments as hereinafter authorized. The counties of New Hanover and Pender are authorized to make special assessments against the benefitted property within their boundaries for the purpose of financing navigation projects in accordance with the procedures in

Article 9 of Chapter 153A of the North Carolina General Statutes, and the municipalities in New Hanover and Pender counties are authorized to make special assessments against the benefitted properties within their boundaries for the purpose of financing navigation projects in accordance with the procedures of Article 10 of Chapter 160A of the North Carolina General Statutes.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. B. 54 CHAPTER 154

AN ACT TO AMEND CHAPTER 115A, SECTION 4 OF THE NORTH CAROLINA GENERAL STATUTES TO PROVIDE REGULATIONS FOR IN-PLANT TRAINING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115A-4 as it presently appears in the 1975 Replacement Volume 3A of the North Carolina General Statutes is hereby amended by deleting the third paragraph therefrom.

Sec. 2. Article 1 of Chapter 115A of the North Carolina General Statutes is hereby amended by adding thereto a new section which shall be numbered 115A-4.1 and which shall read:

"§ 115A-4.1. *Provision of in-plant training.*—Community colleges and technical institutes shall assist in the pre-employment and in-service training of employees in industry, business, agriculture, health occupation and governmental agencies. The State Board of Education shall make appropriate regulations including the establishment of maximum hours of instruction which may be offered at State expense in each in-plant training program. No instructor or other employee of a community college or technical institute shall engage in the normal management, supervisory and operational functions of the establishment in which the instruction is offered during the hours in which they are employed for instructional or educational purposes."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1977.

H. B. 170 CHAPTER 155

AN ACT TO AMEND G.S. 88-1, RELATING TO COSMETOLOGISTS SO AS TO MAKE THE PROVISIONS OF SAID ACT APPLY TO CUMBERLAND, FORSYTH, STANLY AND UNION COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-1, as the same appears in the 1975 Cumulative Supplement to Volume 2C of the General Statutes, is amended by deleting the words "Cumberland, Forsyth, Stanly and Union" appearing in the last sentence of the second paragraph thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1977.

H. B. 381 CHAPTER 156

AN ACT TO AMEND G. S. 25-9-403(7), CONCERNING THE FILING OF A FINANCING STATEMENT COVERING TIMBER TO BE CUT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-9-403(7), as the same appears in the 1976 Interim Supplement to the General Statutes is hereby amended by rewriting lines 1 through 4 to read as follows:

"(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, or is filed as a fixture filing, the filing officer, in addition to complying with subsection (4) of this section, shall:"

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 6th day of April, 1977.

S. B. 186 CHAPTER 157

AN ACT TO ALLOW CIVIC AND CHARITABLE ORGANIZATIONS TO SPONSOR OR OPERATE THE GAME OF BINGO IN PAMLICO COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 627 of the 1971 Session Laws is hereby amended by adding the words "Pamlico", "Jones" and "Union" between the words "of" and "Polk" on line 3 thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1977.

S. B. 188 CHAPTER 158

AN ACT TO REWRITE G.S. 153A-233 CONCERNING COUNTY FIRE PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-233 is hereby rewritten to read as follows:

"§ 153A-233. *Fire-fighting and prevention services.*—A county may establish, organize, equip, support, and maintain a fire department; may prescribe the duties of the fire department; may provide financial assistance to incorporated volunteer fire departments; may contract for fire-fighting or prevention services with one or more counties, cities, or other units of local government or with an agency of the State government, or with one or more incorporated volunteer fire departments; and may for these purposes appropriate funds not otherwise limited as to use by law. The county may also designate fire districts or parts of existing districts and prescribe the boundaries thereof for insurance grading purposes."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 6th day of April, 1977.

S. B. 210 **CHAPTER 159**

AN ACT TO AMEND CHAPTER 16, SESSION LAWS OF 1957 RELATING TO THE GASTON COUNTY RURAL POLICE FORCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 16 of the Session Laws of 1957 is hereby amended by changing in the title and the body of the act the words "rural police department", "rural police force", "rural police system" or similar words to read "Gaston County Police Force", wherever they appear therein, and to make such other internal changes so that all references therein to "rural police", "rural police department", "rural police force", "department" shall be changed to properly refer to the Gaston County Police Force.

Sec. 2. Chapter 16 of the Session Laws of 1957 is hereby amended by inserting after Section 1, a new section to read:

"Sec. 1.1. Wherever the words 'resident judge of the Superior Court' appear in this act the same shall be changed to read 'regular Superior Court Judge, with the longest tenure in office, residing in Gaston County, and if there be no Superior Court Judge residing in Gaston County, then the senior resident Superior Court Judge from the Judicial District'."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1977.

H. B. 315 **CHAPTER 160**

AN ACT TO REQUIRE THE IMMUNIZATION OF CHILDREN AGAINST RUBELLA.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 130-87 is hereby rewritten to read as follows:

"Every child residing in this State shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola), and rubella, and, in addition, shall be immunized against smallpox, upon a determination by the Commission for Health Services that such immunization is in the best interest of the public health."

Sec. 2. This act shall not require any additional State appropriation.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of April, 1977.

H. B. 373 **CHAPTER 161**

AN ACT TO AMEND CHAPTER 503 OF THE SESSION LAWS OF 1971 TO PROVIDE FOR NINE MEMBERS ON DARE COUNTY AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 503 of the 1971 Session Laws is hereby amended by substituting the word "nine" for the word "seven" found in the first sentence and by deleting the third sentence.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1977.

H. B. 413 **CHAPTER 162**

AN ACT TO EXEMPT THE OFFER AND SALE OF LIMITED PARTNERSHIP INTERESTS IN PARTNERSHIPS ORGANIZED FOR THE SOLE PURPOSE OF OWNING AND OPERATING LOW AND MODERATE INCOME RENTAL HOUSING PROJECTS FROM THE REGISTRATION REQUIREMENTS OF THE NORTH CAROLINA SECURITIES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-17 is hereby amended by changing the period (.) at the end of subdivision (14) to a semicolon (;) and by adding after subdivision (14), as amended, a new subdivision (15) to read as follows:

"(15) Any offer or sale of limited partnership interests in a partnership organized under the North Carolina Uniform Limited Partnership Act for the sole purpose of constructing, owning and operating a low and moderate income rental housing project located in North Carolina if the total amount of the offering and the total number of limited partners, both within and without this State for each such partnership, does not exceed five hundred thousand dollars ($500,000) and 100 respectively. This exemption shall be allowed without limitation as to (i) the number, either in total or within any time period, of separate partnerships which may be formed by the same general partner or partners, sponsors or individuals in which partnership interests are offered; (ii) the period over which such offerings can be made; (iii) the amount of each limited partner's investment; or (iv) the period over which such investment is payable to the partnership. For purposes of this subdivision (15), the term 'low and moderate income rental housing project' means:

a. any housing project with respect to which a mortgage is insured or guaranteed under Section 221(d)(3) or 221(d)(4) or 236 of the National Housing Act, or any housing project financed or assisted by direct loan, mortgage insurance or guaranty, or tax abatement under similar provisions of federal, State or local laws, whether now existing or hereafter enacted; or

b. any housing project, some or all of the units of which are available for occupancy by families or individuals eligible to receive subsidies under Section 8 of the United States Housing Act of 1937, as amended, or under the provisions of other federal, State or local law authorizing similar levels of subsidy for lower income families, whether now existing or hereafter enacted; or

c. any housing project with respect to which a loan is made, insured or guaranteed under Title V, Section 515, of the Housing Act of 1949, or under similar provisions of other federal, State or local laws, whether now existing or hereafter enacted."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1977.

H. B. 459 CHAPTER 163

AN ACT TO AUTHORIZE THE SECRETARY OF HUMAN RESOURCES TO DESIGNATE A SUBORDINATE OFFICER OR EMPLOYEE OF THE DEPARTMENT AS THE STATE REGISTRAR OF VITAL STATISTICS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-36 is hereby rewritten to read as follows:

"§ 130-36. *State Registrar.*—The Secretary of Human Resources shall designate a subordinate officer or employee of this department as the State Registrar of Vital Statistics who shall exercise all the authority conferred by this Article."

Sec. 2. G.S. 130-42.1(b) is hereby amended by deleting the words "office of the Secretary of Human Resources" in line 5 and substituting the words "State Registrar of Vital Statistics".

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of April, 1977.

H. B. 529 CHAPTER 164

AN ACT TO EXTEND THE PROHIBITION AGAINST THE HUNTING OR TAKING OF BEAR IN TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to take or hunt bear in the County of Tyrrell at any time prior to October 1, 1979.

Sec. 2. Violation of this act shall be a misdemeanor punishable by a fine of not less than two hundred and fifty dollars ($250.00) or by imprisonment for not more than 30 days, or by both, in the discretion of the court.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1977.

S. B. 118

CHAPTER 165

AN ACT TO AMEND G.S. 47-108.11 RELATING TO VALIDATION OF RECORDED INSTRUMENTS WHERE SEALS HAVE BEEN OMITTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-108.11 is hereby amended by rewriting the second paragraph thereof to read as follows:

"This section shall not apply in any respect to any instrument recorded or registered subsequent to January 1, 1977, or to pending litigation or to any such instruments now directly or indirectly involved in pending litigation."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1977.

S. B. 212

CHAPTER 166

AN ACT TO AMEND THE UNIFORM ANATOMICAL GIFT ACT TO PROVIDE FOR THE DONATION OF ALL OR ANY PART OF THE WARD'S BODY BY THE GUARDIAN BEFORE THE TIME OF THE WARD'S DEATH.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 90-220.2(b) is hereby rewritten to read as follows:

"The persons authorized by this subsection may make the gift after or immediately before death; provided, however, the guardian of the person of a ward may make the gift at any time during the guardianship and the gift shall become effective upon the death of the ward unless the guardianship shall have terminated before death."

Sec. 2. Subsection (e) of G.S. 90-220.4 is hereby rewritten to read as follows:

"Any gift by a person designated in G.S. 90-220.2(b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message; provided, however, a guardian of the person of a ward, who makes a gift of all or any part of the ward's body prior to the ward's death, shall make the gift by a document signed by him and filed with the clerk of court having jurisdiction over the guardian."

Sec. 3. G.S. 90-220.5 is hereby amended by adding the words "or the guardian" after the word "donor" in line 1 and by adding the words "or ward's" after the word "donor's" in line 8.

Sec. 4. G.S. 90-220.6(a) is hereby amended by adding the following sentence at the end of the subsection:

"A guardian may amend or revoke the gift by the execution and delivery to the donee of a signed statement."

Sec. 5. G.S. 90-220.6(b) is hereby amended by adding the words "or guardian" after the word "donor" in line 2.

Sec. 6. G.S. 90-220.7 is hereby amended by (i) adding the words "or ward" after the word "donor" in the sixth line of subsection (a) and by (ii) adding the words "or ward" after the word "donor" in the first line of subsection (b).

Sec. 7. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of April, 1977.

H. B. 279 CHAPTER 167

AN ACT TO AMEND CHAPTER 269 OF THE 1975 SESSION LAWS TO PREVENT THE USE OF ARTIFICIAL LIGHTS IN AREAS INHABITED BY GAME IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 269 of the 1975 Session Laws is rewritten to read as follows:

"Sec. 5. This act shall apply only to the counties of Gates, Guilford, Polk, Hertford, Johnston, Northampton, Surry and Wayne."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 324 CHAPTER 168

AN ACT PERMITTING MUNICIPAL OR COUNTY REGULATION OF THE SOLICITATION OF CHARITABLE FUNDS IN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-75.24, as it appears in the 1975 Supplement to Volume 3A, is amended by adding the following sentence:

"Nothing in this section shall be deemed or construed to require that such ordinances or regulations be identical with the provisions of this Part, as amended, and the rules and regulations of the Commission, provided that such ordinances or regulations are substantially as stringent as or require a higher standard of conduct than the provisions of this Part and the rules and regulations of the Commission."

Sec. 2. This act shall apply only to Forsyth County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 453 CHAPTER 169

AN ACT TO REPEAL CHAPTER 125 OF THE 1870 PUBLIC LAWS REGULATING THE SCOTCH FAIR.

The General Assembly of North Carolina enacts:

Section 1. Chapter 125 of the 1870 Public Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 454 CHAPTER 170

AN ACT TO REPEAL CHAPTER 247 OF THE 1943 SESSION LAWS RELATING TO THE RICHMOND COUNTY AIRPORT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 247 of the 1943 Session Laws, creating the Richmond County Airport Commission, is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 465 CHAPTER 171

AN ACT TO AMEND CHAPTER 60, SESSION LAWS OF 1957, BY CHANGING THE TERM OF OFFICE FOR THE MAYOR AND COMMISSIONERS FOR THE TOWN OF WEBSTER.

The General Assembly of North Carolina enacts:

Section 1. On the first Tuesday after the first Monday in November, 1977, and every four years thereafter, there shall be held in said Town of Webster a municipal election at which election there shall be elected a mayor and five commissioners who shall take office on the first Monday in December next succeeding their election and shall hold office for four years and until their successors shall be duly elected and qualified.

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 474 CHAPTER 172

AN ACT TO MODIFY THE METHOD OF SELECTION OF MEMBERS OF THE BOARD OF EDUCATION OF THE WHITEVILLE CITY SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 168, Session Laws of 1975, is hereby repealed, effective May 2, 1977.

Sec. 2. L. D. Baldwin, Dr. W. C. Burns, Lewis S. Cokley, F. J. Corbett, J. B. Davis, Bill Friedman, Carolyn High, Billy Hooks, Harry "Bobby" Jordan, Catherine Powell Lee, Katie Powell, A. Julius Smith, Howard Straughan, Lionel Todd, and E. L. White are hereby appointed members of the Board of Education of the Whiteville City Administrative Unit.

Sec. 3. The above named members shall begin their terms of office on the first Monday in May 1977, and the terms of office of the above named members shall continue until their successors are duly elected, appointed and qualified as hereinafter provided.

Sec. 4. The Board of Education of the Whiteville City School Administrative Unit shall be composed of nine members. Five shall be elected and four shall be appointed as hereinafter provided.

Sec. 5. The elected members of the Board of Education of the Whiteville City School Administrative Unit shall be elected on a nonpartisan basis and all elected members shall serve for terms of four years except for the initial terms which shall be staggered as hereinafter provided; all appointed members shall serve for terms of two years. Candidates for the elected positions shall file notice of candidacy with the Columbus County Board of Elections not more than 150 days nor less than 90 days prior to the time of the general elections in North Carolina.

Sec. 6. The election for five members of the board shall be held in 1978, and biennially thereafter, at the time of the general elections in North Carolina, and shall be conducted according to the provisions of the General Statutes then governing elections. Members of the board so elected shall take office on the first Monday in April 1979. Those members appointed by the General Assembly shall take office on the same date as elected members.

Sec. 7. The elected members of the Board of Education of the Whiteville City Administrative Unit shall be elected by those voters residing within the boundaries of the Whiteville City Administrative Unit. The appointed members of the Board of Education of the Whiteville City Administrative Unit shall be appointed by the General Assembly from qualified voters residing within the boundaries of the Whiteville City Administrative Unit. Once appointed or elected, each member shall hold office until his or her successor has been duly elected or appointed.

Sec. 8. At the first election hereunder during the year 1978, the three candidates receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, all elected members shall be elected for terms of four years.

Sec. 9. After the election for elected members in 1978, and at least 10 days before the members are to take office, the General Assembly shall appoint four members for terms of two years. Thereafter, all appointed members shall be appointed for terms of two years, and their appointment shall be made by the General Assembly at least 10 days prior to the time for taking office and after the election for elected members.

Sec. 10. Any vacancy on the board caused by death, resignation, removal from the administrative unit, or any other reason, shall be filled within 15 days by the remaining board members and the person appointed shall serve for the unexpired term of the member causing the vacancy. In the event there is a tie vote for the filling of a vacancy, the resident superior court judge shall, within 15 days, cast the deciding vote. In the event the remaining board members do not appoint some person to fill the vacancy within 15 days after said vacancy occurs, the resident superior court judge shall appoint some person to fill said vacancy; provided, any vacancy occurring among the members appointed by the General Assembly shall be filled by the General Assembly if the General Assembly is in session.

Sec. 11. The board shall hold its organizational meeting on the day the terms begin and shall elect from its membership a chairman, a vice-chairman and a secretary. The officers shall serve for one year, but shall be eligible to succeed themselves.

Sec. 12. The Board of Education of the Whiteville City Administrative Unit shall have the authority to set the salary, if any, of the members of said

board by resolution, with said salary not to exceed that of the members of the Columbus County Board of Education.

Sec. 13. This act is applicable only to the Board of Education of the Whiteville City Administrative Unit.

Sec. 14. Except as otherwise provided herein, the election shall be held and conducted by the county board of elections in accordance with the laws, rules and regulations governing elections for county offices.

Sec. 15. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 490

CHAPTER 173

AN ACT PROVIDING FOR THE NOMINATION AND ELECTION OF THE MEMBERS OF THE CAMDEN COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Camden County Board of Education shall consist of five members who shall serve for terms of four years each, and, for the purposes of electing members of the Camden County Board of Education, Camden County shall be divided into four districts bounded and described as follows:

District No. 1, South Mills Township.
District No. 2, Courthouse Township.
District No. 3, Shiloh Township.
District No. 4, Camden County at large.

Sec. 2. It is the purpose of this act that there shall be one member elected from the South Mills Township, one member elected from the Courthouse Township, one member elected from the Shiloh Township, and two members elected at large, provided each shall be from different townships, from the district representing Camden County.

Sec. 3. As the Board of Education of Camden County is presently constituted, Charles Ralph Sawyer shall represent the South Mills Township, Melvin J. Jeralds shall represent the Courthouse Township, Wilma P. Steele shall represent the Shiloh Township, and Stephen F. Sawyer and W. F. Williams shall represent the at-large positions to be elected from Camden County.

Sec. 4. In the primary to be held in Camden County in 1978, there shall be elected one member of the Camden County Board of Education from the at-large position. In the primary election to be held in Camden County in 1978, there shall be elected three members of the Camden County Board of Education. One of the said members shall be a resident of District No. 1, the South Mills Township, one shall be a representative of District No. 3, the Shiloh Township, and the other shall be a representative of District No. 4. Quadrennially thereafter, as the terms of office of the said members of the Camden County Board of Education shall expire, there shall be elected a sufficient number of members to fill all vacancies occurring by reason of expiration of office. The members so elected in said primary elections shall be residents of the district of the member or members whose terms of office are expiring. The at-large members shall not be from the same township. The said members so elected shall take the oath of office on the next succeeding first Monday in December following their election.

Sec. 5. The members representing the various districts on the Camden County Board of Education shall be residents of the said districts and shall file with the County Board of Elections of Camden County a notice of candidacy which shall give the candidate's name, address, place of residence and a statement that he desires to be a candidate for membership on the said Camden County Board of Education for the district in which he resides. The election of said members of said board shall be in the primary as heretofore set forth and shall be by nonpartisan election. The Board of Elections of Camden County shall prepare a separate ballot for the election of said members which shall, among other things, contain the name of the candidate, the school district that he desires to represent and shall not contain any reference to party affiliation in any manner or form. The said candidates for membership on the Camden County Board of Education shall be voted on at large by the eligible voters of Camden County, and the Board of Elections of Camden County shall canvass and judicially determine the results of said election and declare the members so elected. The candidates receiving the highest number of votes in any particular district shall be declared to be elected, and there shall be no other election until the regular time above-named and after expiration of terms of office. It is the intent and purpose of this act that said members of the Camden County Board of Education shall be elected in said primary or primaries and there shall be no further election in the general election. All persons so elected shall serve until their successors are elected and qualified, and any vacancy occurring on the Camden County Board of Education by death, resignation or otherwise shall be filled by the remaining members of the Camden County Board of Education for the unexpired term, but the person appointed to fill such vacancy must be from the same district as the person whose death, resignation or removal created the vacancy on said Camden County Board of Education.

Sec. 6. The election of said members of the Camden County Board of Education in the various primary elections as hereinabove provided shall be governed by Chapter 163 of the General Statutes, relating to primaries and elections, insofar as the same may be applicable and not in conflict with the expressed terms of this act. The Camden County Board of Elections is hereby authorized and empowered to create any necessary precincts, to appoint any necessary election officials and to set up and establish all necessary books and records for the conduct of said election in said primary.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 530 CHAPTER 174

AN ACT TO AMEND CHAPTER 398 OF THE 1973 SESSION LAWS RELATING TO THE CIVIL SERVICE TEST IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 398 of the 1973 Session Laws is hereby amended by deleting therefrom Section 6 in its entirety.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 586

CHAPTER 175

AN ACT TO PROVIDE FOR THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW BY THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Cumberland County may appoint each year a special board of equalization and review. The Cumberland County Board of Equalization and Review is to be composed of five members. The board of county commissioners shall designate one member as chairman. To be eligible for appointment to such board a person must have resided in Cumberland County for a period of at least five years immediately preceding his appointment, and must have had such experience in the valuation of real and personal property as is satisfactory to the board of county commissioners. Any vacancy on the board of equalization and review shall be filled by the board of county commissioners, and all appointments to the board of equalization and review shall terminate upon final adjournment of the board for the year for which they are appointed.

Sec. 2. After a special Cumberland County Board of Equalization and Review is appointed in any calendar year and takes the oath of office, it shall carry out all duties granted to the board of equalization and review as described in Subchapter II of Chapter 105 of the General Statutes. Provided, after the special board of equalization and review completes its duties and adjourns for the year, the board of county commissioners shall be vested with all powers and duties granted to it under Subchapter II of Chapter 105 of the General Statutes of North Carolina.

Sec. 3. All members of the special board of equalization and review shall receive for their services such compensation as may be fixed by the board of county commissioners. The board of county commissioners is authorized to provide such clerical or other assistants as they may deem advisable.

Sec. 4. The members of the special board of equalization and review shall take and subscribe to the same oath as provided for in G.S. 105-322 before entering upon their duties.

Sec. 5. The time of meeting, notice of meeting and powers and duties of the special board of equalization and review shall be the same as those provided for in G.S. 105-322.

Sec. 6. This act shall apply to Cumberland County only.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 597 **CHAPTER 176**

AN ACT TO IMPLEMENT METRICATION IN THE ALCOHOLIC BEVERAGE CONTROL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18A is hereby amended by deleting the words "one gallon" wherever they appear in the Chapter and substituting therefor the words "four liters".

Sec. 2. Chapter 18A is hereby amended by deleting the words "five gallons" wherever they appear in the Chapter and substituting therefor the words "twenty liters".

Sec. 3. Chapter 18A is hereby amended by deleting the words "twenty gallons" wherever they appear in the Chapter and substituting therefor the words "eighty liters".

Sec. 4. Chapter 18A is hereby amended by deleting the words "one fifth gallon" wherever they appear in the Chapter and substituting therefor the words "seven hundred fifty milliliters".

Sec. 5. G.S. 18A-31.1(a) is hereby amended by deleting the words "three gallons" therefrom and substituing therefor the words "twelve liters".

Sec. 6. G.S. 18A-15(3) c. 2. is hereby amended by deleting the words "two ounces" therefrom wherever they appear and substituting therefor the words "fifty milliliters (50 ml)".

Sec. 7. G.S. 18A-41(a) is hereby amended by deleting the word "gallons" where it appears therein and substituting therefor the word "liters".

Sec. 8. G.S. 18A-40(c) is hereby amended by deleting the numeral and word "50 feet" and substituting therefor the words "fifteen meters (15 m)".

Sec. 9. G.S. 18A-44.1 is hereby amended by deleting the numeral and word "100 miles" and substituting therefor the numeral and words "160 kilometers (160 Km)".

Sec. 10. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 626 **CHAPTER 177**

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF BANNER ELK, AVERY COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES SHALL BE OPERATED IN THE TOWN OF BANNER ELK.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Banner Elk shall call a special election to be held on the question of whether alcoholic beverage control stores may be operated in said town. The governing body may call the special election to be held on such date as the county board of elections may determine, but not less than 30 nor more than 60 days subsequent to the ratification of this act. The Avery County Board of Elections shall hold and conduct all elections under this act, and the cost of the special elections shall be paid from the general fund of the town.

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to

registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Banner Elk.

Sec. 3. There shall be submitted to the qualified voters of the Town of Banner Elk at said election the question of whether municipal alcoholic beverage control stores may be operated in said town, and if a majority of the votes cast in such an election shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the town, but if a majority of the votes cast in such election shall be against alcoholic beverage control stores, no such stores shall be set up or operated in the Town of Banner Elk under the provisions of this act. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Alcoholic Beverage Control Stores", "Against Alcoholic Beverage Control Stores". Those favoring setting up and operating alcoholic beverage control stores in the town shall mark in the voting square to the left of the words, "For Alcoholic Beverage Control Stores", printed on the ballot and those opposed to alcoholic beverage control stores shall mark in the voting square to the left of the words "Against Alcoholic Beverage Control Stores", printed on the ballot.

Sec. 4. If the operation of town alcoholic beverage control stores is authorized under the provisions of this act, the governing body of the town shall immediately create a town board of alcoholic beverage control, to be composed of a chairman and two other members who shall be well known for their good character, ability and business acumen. Said board shall be known and designated as the "Town of Banner Elk Board of Alcoholic Beverage Control". The chairman of said board shall be designated by the governing body of the town and shall serve for his first term a period of three years. The other two members of the board of alcoholic beverage control shall be designated by the governing body of the town, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the same term shall have expired, successors in office shall serve for a period of three years. Their successors shall be named by the governing body of the town. Any vacancy shall be filed by the governing body of the town for the unexpired term.

Sec. 5. The town board of alcoholic beverage control shall have all the powers and duties prescribed for county boards of alcoholic control by G.S. 18A-17, except to the extent that the same may be in conflict with the provisions of this act, and shall be subject to the same powers and authority of the State Board of Alcoholic Control as are county boards of alcoholic control by the provisions of G.S. 18A-15. The Town of Banner Elk Board of Alcoholic Control, in the operation of any city alcoholic beverage control stores authorized under the provisions this act, shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent that the same may be in conflict with the provisions of this act. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Banner Elk Board of Alcoholic Control.

Sec. 6. The town board of alcoholic beverage control shall, out of the gross revenue derived from the operation of alcoholic beverage control stores,

pay all salaries, costs and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the town board of alcoholic beverage control. The remaining revenue, as determined by quarterly audit, shall be distributed quarterly by the town board of alcoholic beverage control to the general fund of the Town of Banner Elk to be used for any and all purposes for which tax and non-tax revenues may be expended by the town. Provided, however, that of said monies received, the town shall expend a sum not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics.

Sec. 7. Subsequent elections may be held as authorized in this section. At such election if a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores", the alcoholic beverage control board shall be closed immediately and no beverages shall be sold at retail or otherwise to citizens of Avery County, and within three months from the canvassing of such votes and the declaration of the results thereof, the alcoholic beverage control board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said board and convert the same into cash and the same be deposited in the general fund of the Town of Banner Elk. Thereafter, all public, local and private laws applicable to the sale of intoxicating beverages within the Town of Banner Elk, in force and effect prior to the authorization to operate alcoholic beverage control stores, shall be in full force and effect the same as if such election had not been held, and until and unless another election is held under the provisions of the act in which a majority of the votes shall be cast "For Alcoholic Beverage Control Stores". No election shall be called and held in the town under the provisions of this act within three years from the holding of the last election thereunder. The governing body of the Town of Banner Elk may order a subsequent alcoholic beverage control election on its own motion, and shall within 60 days after a petition shall have been presented to the town's governing body, filed and signed by at least twenty percent (20%) of the number of the registered and qualified voters of the Town of Banner Elk that voted in the election for the governing body of said town in the last election, order an election on the question of whether alcoholic beverage control stores shall be operated in the town.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

S. B. 168 **CHAPTER 178**

AN ACT TO AUTHORIZE HOSPITAL AUTHORITIES TO REGULATE PARKING ON PROPERTY OWNED OR LEASED BY THEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131-98(a) is hereby amended by adding a new subdivision to read as follows:

"(40) To remove vehicles parked on land owned or leased by the hospital authority in areas clearly designated as no parking or restricted parking zones. An owner of a removed vehicle, as a condition of regaining possession of the vehicle, shall reimburse the hospital authority for all reasonable costs, not to exceed twenty dollars ($20.00), incidental to the removal and storage of the vehicle provided that the designation of the area as a no parking or restricted parking zone clearly indicates that the owner may be subject to such costs."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

S. B. 273 **CHAPTER 179**

AN ACT PROVIDING FOR THE TRANSFER OF THE CONTROL, MANAGEMENT, AND OPERATION OF THE CHARLOTTE PARK AND RECREATION COMMISSION TO THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Charlotte, North Carolina, if it deems wise, is hereby authorized and empowered to abolish the Charlotte Park and Recreation Commission and to create and establish a city department to be known as the "Park and Recreation Department", or by some other appropriate title. The city council may exercise the power and authority herein conferred only after a public hearing held by said council pursuant to 30 days' notice of said public hearing published once in a newspaper having general circulation in said city, and by the adoption of a resolution as hereinafter provided.

Sec. 2. Upon the adoption of a resolution, the Charlotte City Council may abolish the Charlotte Park and Recreation Commission, such abolition to be effective on a day set in such resolution not less than 90 days after its adoption. Upon the adoption of such a resolution, the Charlotte Park and Recreation Commission is hereby authorized and directed to take such actions and to execute such documents as will carry into effect the provisions and the intent of the resolution, and as will effectively transfer its authority, responsibilities, obligations, personnel and property, both real and personal, to the City of Charlotte.

On the day set in the resolution of the governing body:

(1) The Charlotte Park and Recreation Commission shall cease to exist as a body politic and corporate and as a public body.

(2) All property, real and personal and mixed, belonging to the Charlotte Park and Recreation Commission shall vest in, belong to, and be the property of the City of Charlotte.

(3) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Charlotte Park and Recreation Commission shall remain, vest in, and inure to the benefit of the City of Charlotte.

(4) All rentals, taxes, assessments, and any other funds, charges or fees, owing to the Charlotte Park and Recreation Commission shall be owed to and collected by the City of Charlotte.

(5) Any actions, suits, and proceedings pending against, or having been instituted by the Charlotte Park and Recreation Commission shall not be abated by such abolition but all such actions, suits and proceedings shall be continued and completed in the same manner as if abolition had not occurred, and the City of Charlotte shall be a party to all such actions, suits and proceedings in the place and stead of the Charlotte Park and Recreation Commission and shall pay or cause to be paid any judgment rendered against the Charlotte Park and Recreation Commission in any such actions, suits or proceedings, and no new process need be served in any such action, suit or proceeding.

(6) All obligations of the Charlotte Park and Recreation Commission, including outstanding indebtedness, shall be assumed by the City of Charlotte, and all such obligations and outstanding indebtedness shall be constituted obligations and indebtedness of the city.

(7) All rules, regulations and policies of the Charlotte Park and Recreation Commission shall continue in full force and effect until repealed or amended by the city council.

Sec. 3. In the event the City Council of the City of Charlotte adopts a resolution as herein provided abolishing the Charlotte Park and Recreation Commission, then Chapter 51 of the Public-Local and Private Laws, 1927 Session and Subchapter C of Chapter V, Sections 5.41 through and including Section 5.49 of Chapter 713 of the 1965 Session Laws, as amended, have served the purpose for which they were enacted and are hereby repealed.

Sec. 4. This act shall apply to the City of Charlotte only.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

S. B. 278

CHAPTER 180

AN ACT TO AMEND CHAPTER 868 OF THE 1975 SESSION LAWS TO PROVIDE FOR FILLING A VACANCY IN THE HENDERSON COUNTY OFFICE OF REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 868 of the 1975 Session Laws is hereby amended by inserting after "Haywood," and before "Jackson," the word and punctuation "Henderson,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 280 **CHAPTER 181**

AN ACT TO PROHIBIT HUNTING WITH FIREARMS FROM THE RIGHT-OF-WAY OF HIGHWAYS IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to hunt, kill, take or attempt to hunt, kill, or take any animal by or with the use of firearms from any public road, highway or street in Surry County and Guilford County.

Sec. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be fined not in excess of fifty dollars ($50.00) or imprisoned not in excess of 30 days, or both, in the discretion of the court.

Sec. 3. This act shall be enforced by North Carolina Wildlife Protectors and all other law enforcement officers.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 414 **CHAPTER 182**

AN ACT TO AMEND CHAPTER 18A OF THE GENERAL STATUTES TO AUTHORIZE THE SALE OF UNFORTIFIED WINES, IN THOSE MUNICIPALITIES AND COUNTIES HAVING ABC STORES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (f) of G.S. 18A-38 is amended in the second line of that subsection by adding the words "or unfortified" between the word "fortified" and the word "wines".

Sec. 2. G.S. 18A-52 is amended by adding a new subsection (k) to read as follows:

"(k) Notwithstanding any other provision of this Chapter, it shall be lawful to sell unfortified wine in those retail establishments described in G.S. 18A-38(f)."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 457 **CHAPTER 183**

AN ACT TO AMEND THE COMPENSATION PROVISIONS FOR SANITARY DISTRICT BOARD MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-129 is hereby amended by rewriting the second sentence to read as follows:

"Each member of the board may receive a per diem compensation and other compensation as provided for members of State boards under G.S. 138-5 when actually engaged in the business of the district, payable from the funds of the district."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 495 **CHAPTER 184**

AN ACT TO EXTEND THE MENTAL HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Mental Health Study Commission established and structured by 1973 General Assembly Resolution 80, 1973 Session Laws Chapter 806, and 1975 Session Laws Chapter 185 is hereby revived and authorized to continue in existence until July 1, 1979.

Sec. 2. The continued Mental Health Study Commission shall have all the powers and duties of the original study commission as they are necessary to continue the original study, assist in the implementation of the original study commission recommendations, and plan further activity on the subject of the study.

Sec. 3. Section 2 of the 1973 General Assembly Resolution 80 is hereby amended:

(1) by deleting the word "eleven" in line 1 of that section and substituting the word "fifteen" therefor; (2) by deleting the word "three" in line 2 of that section and substituting the word "four" therefor; (3) by deleting the word "three" in line 5 of that section and substituting the word "four" therefor; (4) by deleting the phrase "Mental Health Committee" in line 6 of that section and substituting "Human Resources Committee" therefor; (5) by deleting the sentence "The Governor shall appoint five members." in line 7 of that section and substituting the following sentences therefor: "The Governor shall appoint seven members. Two of the seven appointees shall be North Carolina county commissioners taken from a list of four candidates provided by the North Carolina Association of County Commissioners. If, after the Governor's request for such list, the above-named association fails to provide the list of candidates within a reasonable time, then the Governor shall appoint any two county commissioners to the commission."; and (6) by deleting the phrase "Mental Health Committees" in lines 7 and 8 of that section and substituting the phrase "House Mental Health Committee and the Senate Human Resources Committee" therefor.

Sec. 4. Members of the present Mental Health Study Commission shall remain members of the continued study commission, but they shall serve at the pleasure of the person holding the office authorized to make the original appointment. Members of the General Assembly who are not reelected shall not be disqualified from membership on the continued study commission because they are no longer members of the General Assembly, but the person holding the office authorized to make the original appointment may replace them with new appointees.

Sec. 5. Members and staff of the continued Mental Health Study Commission shall receive the same compensation and expenses as under the original authorization in the 1973 General Assembly Resolution 80, and the Department of Human Resources is hereby authorized to reallocate fiscal resources under Budget Code 24081-1301 as the funding source for the Mental Health Study Commission.

Sec. 6. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. B. 273 CHAPTER 185

AN ACT TO AMEND CHAPTER 58 SO AS TO EXEMPT WARRANTIES OFFERED BY FOREIGN CAR DISTRIBUTORS FROM BEING CONTRACTS OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-3.1 is rewritten to read as follows:

"§ 58-3.1. *Motor vehicle warranties.*—Any motor vehicle warranty issued by a person as defined in this Article, other than a warranty made solely by the manufacturer or seller without charge or an extended warranty offered as an option by a manufacturer or seller or authorized distributor of foreign manufactured automobiles for charge, guaranteeing indemnity for defective parts, mechanical breakdown and labor shall be a contract of insurance, provided that a product guaranty or warranty which accompanies the sale of a product used in the maintenance or operation of a motor vehicle shall not be a contract of insurance under this Chapter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

H. B. 377 CHAPTER 186

AN ACT TO AMEND G.S. 15A-1023(b) TO PROVIDE FOR THE GRANTING OF A CONTINUANCE TO DEFENDANT UPON REJECTION OF A PLEA BY TRIAL JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1023(b) is hereby amended by inserting after the third sentence, after the word "accordingly" and before the words "a decision" in line 9 the following sentence:

"Upon rejection of the plea arrangement by the judge the defendant is entitled to a continuance until the next session of court."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

H. B. 535 CHAPTER 187

AN ACT TO AUTHORIZE MUNICIPALITIES TO UNDERTAKE PROGRAMS FOR THE CARE AND ASSISTANCE OF OLDER CITIZENS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by inserting in Article 21 a new section to read as follows:

"§ 160A-497. *Senior citizens programs.*—Any city may undertake programs for the assistance and care of its senior citizens including but not limited to programs for in-home services, food service, counseling, recreation and transportation, and may appropriate funds for such programs. Any city council may contract with any other governmental agency, association, or corporation in undertaking senior citizens programs, and may appropriate funds to any such governmental agency, association or corporation for the purpose of carrying out

such programs. In the event funds appropriated for the purposes of this section are turned over to any agency or organization other than the city for expenditure, no such expenditure shall be made until the city has approved it, and all such expenditures shall be accounted for by the agency or organization at the end of the fiscal year for which they were appropriated. For purposes of this section, the words 'senior citizens' shall mean citizens of a city who are at least 60 years of age."

Sec. 2. G.S. 160A-209(c) is amended by inserting therein a new subdivision (28) to read: "(28) Senior citizens programs - To undertake programs for the assistance and care of its senior citizens." and by renumbering subsequent subdivisions accordingly.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

H. B. 758 CHAPTER 188

AN ACT TO SUPERSEDE CHAPTERS 242 AND 243 OF THE 1939 SESSION LAWS, AMENDED BY CHAPTERS 310 AND 311 OF THE 1945 SESSION LAWS AND CHAPTERS 320 AND 322 OF THE 1955 SESSION LAWS, RELATING TO THE POLICEMEN AND FIREMEN PENSION FUND OF THE CITY OF ASHEVILLE AND SUBSTITUTING IN LIEU THEREOF A NEW ACT TO PROVIDE FOR THE RETIREMENT AND DISABILITY OF POLICEMEN AND FIREMEN OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapters 242 and 243 of the 1939 Session Laws, Chapters 310 and 311 of the 1945 Session Laws and Chapters 320 and 322 of the 1955 Session Laws are hereby superseded by this act.

Sec. 2. Definition, policemen's fund. For the purposes of this act, members of the Asheville Police Department shall mean those persons in the full-time employ of the City of Asheville and assigned to the Police Department of the City of Asheville, excluding participants in the Asheville General Employees Retirement Plan, it being the purpose herein that only those persons who are full-time employees of the Police Department of the City of Asheville shall receive benefits under this act and no temporary or otherwise appointments.

Sec. 3. Establishment and composition of policemen's fund; refund of salary deductions. A pension fund is hereby established and placed under the management of a board of trustees for the purposes of providing retirement allowances and other benefits under the provisions of this act for members of the Police Department of the City of Asheville to be known as the "Asheville Policemen's Pension and Disability Fund" (herein called, "policemen's fund"), and said fund shall be made up and established as follows:

(a) The Director of Finance of the City of Asheville is hereby authorized, directed, and empowered to deduct for each calendar month beginning on July 1, 1955, five percent (5%) of the monthly salary of every member of the policemen's fund as defined in this act.

(b) That after deducting the five percent (5%) set out in subsection (a) of this section, the director of finance shall pay over to the policemen's fund the

amount equal to five percent (5%) of the total salaries set out in the above paragraph.

(c) That the City of Asheville shall, effective with the ratification of this act, pay into the policemen's fund for the remainder of its fiscal year ending June 30, 1977, and for each full fiscal year beginning on or after July 1, 1977, such additional sums of money over and above the foregoing policemen's employee contributions as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 106A-163(d). In no event shall the city's annual contribution be less than the total annual amount contributed by the members of the policemen's fund, as defined in this act. No amendment shall cause or permit any part of the fund's assets to be used for or diverted to purposes other than for the exclusive benefit of the participants and retired participants, or their beneficiaries.

(d) That on or after July 1, 1955, any member of the police department who ceases to be a member thereof for any reason whatsoever may, upon written application to the board of examiners, be entitled to be refunded in full for all funds deducted from his monthly salary and paid into the policemen's fund since July 1, 1955; provided that upon acceptance of said refund he thereby automatically waives any and all pension rights and is thereafter barred from any benefits or payments or any other rights under this act.

Sec. 4. Administration and responsibility for operation of policemen's fund. (a) Board of trustees. The administration and responsibility for the proper operation of the fund and for making effective the provisions of this act are hereby vested in the board of trustees.

(b) Powers and authority of the board of trustees. The board of trustees shall transact all business, invest all funds, and hold cash and securities in the name of the "Asheville Policemen's Pension and Disability Fund".

(c) Members of board. The board shall consist of: (1) a member of the Asheville City Council elected by the city council, who shall serve at the pleasure of the council; (2) an employee of the Fire Department of the City of Asheville under the classified service of said city, other than the fire chief, elected by employees of the fire department for a term of three years beginning with the effective date of this act and every three years thereafter; (3) an employee of the Police Department of the City of Asheville under the classified service of said city, other than the police chief, elected by employees of the police department for a term of three years beginning with the effective date of this act and every three years thereafter. Vacancies occurring during the terms of office of the police and fire trustees shall be filled from the same category as the vacancy.

(d) Operation of fund. The board of trustees shall engage and pay for such actuarial, auditing, investment counseling, legal and other services as shall be required to transact the business of the fund, and in addition, may engage the services of the finance director and the personnel director of the City of Asheville, who shall serve without compensation. The board of trustees shall pay from the policemen's fund benefits as provided for under the terms of this act to such policemen or such beneficiaries as may be entitled under the terms of this act, such benefits to be payable on the first day of each month.

(e) Audit. The board of trustees shall keep a record of all its proceedings and shall publish annually a report showing the fiscal transactions of the fund

for the preceding year, the amount of the accumulated cash and securities of the fund, and the last balance sheet showing the financial condition of the fund by means of an independent audit of the fund using generally accepted accounting principles.

Sec. 5. Normal retirement. Any person who is now a member of the Asheville Police Department, as shown by the records of the City of Asheville, and who becomes a member of the police department on and after March 17, 1939, subject to the provisions of Section 14 of this act, and who has a service of 20 years with said police department, and who has arrived at an age of 60 years, shall have the right to retire from service from the Police Department of the City of Asheville and receive benefits of retirement as set out in this act.

Sec. 6. Mandatory retirement. Any person who becomes a member of the Police Department of the City of Asheville on and after March 17, 1939, subject to the provisions of Section 14 of this act, and has served in said department for 20 years, and has arrived at the age of 66 years, shall retire from the active service of the Police Department of the City of Asheville and shall receive the benefits of the policemen's fund, as set out in this act.

Sec. 7. Credit for service with fire department. Any person who has been in the employ of the City of Asheville as a member of the Asheville Fire Department and has been transferred to the employ of the Asheville Police Department shall receive credit, for the purpose of retirement as set out in this act, for the number of years' service that he has had as a member of the Asheville Fire Department.

Sec. 8. Retirement benefits. (a) Any member of the Asheville Police Department who wishes to retire under the specifications set out in Section 5 of this act, and who has become 60 years of age, and has a total service of 20 years, shall receive annually from the policemen's fund, as set out in this act, a sum equal to three and one-half percent (3 1/2%) of the total salary that he has received for the last 20 years of service with the department, said three and one-half percent (3 1/2%) shall be paid in monthly installments by the board of trustees of the policemen's fund; provided, however, that if the officer coming under the specifications of this section shall die, then the surviving spouse, so long as said surviving spouse remains unmarried, shall receive fifty percent (50%) of what the member would have received should he have lived.

(b) Any person coming under the specifications of Section 6 of this act and having reached the age of 66 years, and having acquired a service record for 20 years, shall receive the same pension as set out in subsection (a) of this section.

Sec. 9. Disability and death benefits. (a) If and in the event any member of the Asheville Police Department qualifying under this act shall become disabled while acting in the line of his police duties or as a result of the performance of duties as a member of the Asheville Police Department, and is unable to work as a policeman, he shall receive monthly a sum equal to seventy percent (70%) of his monthly salary as then paid by the City of Asheville, said seventy percent (70%) of said monthly salary shall be paid in monthly installments by the board of trustees of the policemen's fund; provided, however, that if under the North Carolina Workmen's Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payment shall be deducted from the amount of his said monthly installment, and there shall be paid from the policemen's fund only such amount as may be required to make up his said monthly installment; provided,

further, that if such member of the Asheville Police Department shall be killed in the line of his police duties, or shall die as a result of a disability as defined in this section, the surviving spouse shall receive, so long as said surviving spouse remains unmarried, the same monthly installment as the member would have received under this section; provided, further, that if, under the North Carolina Workmen's Compensation Act such surviving spouse elects to take a lump sum settlement of the amount due on account of the death of the member, then such surviving spouse, so long as said surviving spouse remains unmarried, shall receive from the policemen's fund each month a sum equal to the difference between the monthly installment that would have been received under the Workmen's Compensation Act and the amount of the deceased member's monthly installment, and such payments from the policemen's fund shall continue so long as said surviving spouse remains unmarried.

(b) If any member of the Asheville Police Department, as set out in this act, becomes disabled not in the line of duty, he shall receive annually a sum equal to three and one-half percent (3 1/2%) of his total earnings from the beginning of his service on the Asheville Police Department to the time of his disability; provided, however, that three years' service with the Asheville Police Department is required before any member thereof can take advantage of this section; provided, further, that if such member should die from disability not received in the line of duty, the surviving spouse shall receive one-half of the pension paid to the member at the time of death so long as said surviving spouse remains unmarried.

(c) If any member of the Asheville Police Department, as set out in this act, shall die leaving no surviving spouse entitled to benefits in accordance with Section 8 or 9 of this act, the funds deducted from such policeman's monthly salary and paid to the policemen's fund shall be paid as follows:

(1) to the child or children of such policeman in equal shares;

(2) if there is no surviving child or children, to the designated beneficiary of the policeman, if any;

(3) if there is no surviving child or children or designated beneficiary, to the executors or administrators of the policeman's estate.

Sec. 10. Reserved.

Sec. 11. Maximum benefits. In no event shall any policeman coming under the provisions of this act receive annually more than three and one-half per cent (3 1/2%) of his total salary for a period of 20 years, as set out in Sections 8 and 9(b) of this act.

Sec. 12. Board of examiners; appeals. (a) The mayor of the City of Asheville shall be the chairman of a board of examiners to determine the claims of policemen claimants under this act; the city manager of the City of Asheville shall be a member of said board; the council of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a citizen of the City of Asheville who is a medical doctor to be the third member of said board; the Police Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said police department, who shall not be the police chief, to be the fourth member of said board; the Fire Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said department,

who shall not be the fire chief, to be the fifth member of said board; said third, fourth and fifth members shall serve until their successors are duly elected and qualified and said board shall have the power and authority to determine the claims of said policemen claimants coming under the provisions of this act and their decision shall be reported to the board of trustees for their approval.

(b) The board of trustees shall review the findings of the board of examiners and may approve or reverse the findings of the board of examiners.

(c) Any policeman claimant, his beneficiary or representative whose claim has been denied in whole or in part after review by the board of trustees shall have the right to appeal to the Asheville City Council. Such appeal must be filed by the policeman claimant, his beneficiary or representative in writing with the city clerk within 10 days after receipt of written denial of all or part of the claim by the board of trustees. Such appeal will be heard at a regular weekly city council meeting within six weeks of the filing of the appeal by said policeman claimant, his beneficiary or representative. The decision of the city council shall be final.

(d) The policeman claimant, his beneficiary or representative has the right to file an appeal within 30 days of the city council action outlined in subsection (c) of this section to a court of competent jurisdiction where the issues shall be heard and determined *de novo* with or without a jury.

Sec. 13. Investment of surplus funds. The board of trustees is hereby authorized and empowered to invest any surplus funds accumulated in what is known as the policemen's fund in obligations of the United States Government or obligations fully guaranteed both as to principal and interest by the United States Government or an agency of the United States Government; obligations of the State of North Carolina and certificates of deposit in any banks and shares of any savings and loan associations or building and loan associations operating in the State of North Carolina or credit unions to the extent insured by the government or an agency of the United States.

Sec. 14. Freezing membership in policemen's fund. From and after the effective date of any ordinance of the Asheville City Council establishing an employee retirement and disability plan covering employees of the City of Asheville assigned to the Asheville Police Department under the classified service of said city, future employees so assigned to the police department shall participate in and contribute to such employee retirement and disability plan pursuant to the terms and conditions thereof, and shall not participate in or contribute to the pension plan established by this act; provided, however, that any such employees' retirement and disability plan hereafter established by ordinance of the Asheville City Council shall meet standards of actuarial soundness as required by North Carolina General Statutes 160A-163 and that the city shall contribute such sums of money to said plan as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 160A-163(d).

Sec. 15. Definition, firemen's fund. For the purposes of this act, members of the Asheville Fire Department shall mean those persons in the full-time employ of the City of Asheville and assigned to the Fire Department of the City of Asheville, it being the purpose herein that only those persons who are full-time employees of the Fire Department of the City of Asheville, excluding participants in the Asheville General Employees Retirement Plan,

shall receive benefits under this act and no temporary or otherwise appointments shall receive benefits under this act.

Sec. 16. Establishment and composition of firemen's fund; refund of salary deductions. A pension fund is hereby established and placed under the management of a board of trustees for the purposes of providing retirement allowances and other benefits under the provisions of this act for members of the Fire Department of the City of Asheville to be known as the "Asheville Firemen's Pension and Disability Fund" (herein called, "Firemen's Fund"), and said fund shall be made up and established as follows:

(a) The Director of Finance of the City of Asheville is hereby authorized, directed, and empowered to deduct for each calendar month beginning on July 1, 1955, five percent (5%) of the monthly salary of every member of the firemen's fund as defined in this act.

(b) That after deducting the five percent (5%) set out in subsection (a) of this section, the director of finance shall pay over to the firemen's fund the amount equal to five percent (5%) of the total salaries set out in the above paragraph.

(c) That the City of Asheville shall, effective with the ratification of this act, pay into the firemen's fund for the remainder of its fiscal year ending June 30, 1977, and for each full fiscal year beginning on or after July 1, 1977, such additional sums of money over and above the foregoing firemen's employee contributions as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 160A-163(d). In no event shall the city's annual contribution be less than the total annual amount contributed by the members of the firemen's fund, as defined in this act. No amendment shall cause or permit any part of the fund's assets to be used for or diverted to purposes other than for the exclusive benefit of the participants and retired participants, or their beneficiaries.

(d) That on or after July 1, 1955, any member of the fire department who ceases to be a member thereof for any reason whatsoever may, upon written application to the board of examiners, be entitled to be refunded in full for all funds deducted from his monthly salary and paid into the firemen's fund since July 1, 1955; provided that upon acceptance of said refund he thereby automatically waives any and all pension rights and is thereafter barred from any benefits or payments or any other rights under this act.

Sec. 17. Administration and responsibility for operation of firemen's fund.

(a) Board of trustees. The administration and responsibility for the proper operation of the fund and for making effective the provisions of this act are hereby vested in the board of trustees.

(b) Powers and authority of the board of trustees. The board of trustees shall transact all business, invest all funds, and hold cash and securities in the name of the "Asheville Firemen's Pension and Disability Fund".

(c) Members of board. The board shall consist of: (1) a member of the Asheville City Council elected by the city council, who shall serve at the pleasure of the council; (2) an employee of the Police Department of the City of Asheville under the classified service of said city, other than the police chief, elected by employees of the police department for a term of three years beginning with the effective date of this act and every three years thereafter; (3) an employee of the Fire Department of the City of Asheville under the

classified service of said city, other than the fire chief, elected by employees of the fire department for a term of three years beginning with the effective date of this act and every three years thereafter. Vacancies occurring during the terms of office of the police and fire trustees shall be filled from the same category as the vacancy.

(d) Operation of fund. The board of trustees shall engage and pay for such actuarial, auditing, investment counseling, legal and other services as shall be required to transact the business of the fund, and in addition, may engage the services of the finance director and the personnel director of the City of Asheville, who shall serve without compensation. The board of trustees shall pay from the firemen's fund benefits as provided for under the terms of this act to such firemen or such beneficiaries as may be entitled under the terms of this act, such benefits to be payable on the first day of each month.

(e) Audit. The board of trustees shall keep a record of all its proceedings and shall publish annually a report showing the fiscal transactions of the fund for the preceding year, the amount of the accumulated cash and securities of the fund, and the last balance sheet showing the financial condition of the fund by means of an independent audit of the fund using generally accepted accounting principles.

Sec. 18. Normal retirement. Any person who is now a member of the Asheville Fire Department, as shown by the records of the City of Asheville, and who becomes a member of the fire department on and after March 17, 1939, subject to the provisions of Section 27 of this act, and who has a service of 20 years with said fire department, and who has arrived at an age of 60 years, shall have the right to retire from service from the Fire Department of the City of Asheville and receive benefits of retirement as set out in this act.

Sec. 19. Mandatory retirement. Any person who becomes a member of the Fire Department of the City of Asheville on and after March 17, 1939, subject to the provisions of Section 27 of this act, and has served in said department for 20 years, and has arrived at the age of 66 years shall retire from the active service of the Fire Department of the City of Asheville and shall receive the benefits of the firemen's fund, as set out in this act.

Sec. 20. Credit for service with police department. Any person who has been in the employ of the City of Asheville as a member of the Asheville Police Department and has been transferred to the employ in the Asheville Fire Department shall receive credit, for the purpose of retirement as set out in this act, for the number of years' service that he has had as a member of the Asheville Police Department.

Sec. 21. Retirement benefits. (a) Any member of the Asheville Fire Department who wishes to retire under the specifications set out in Section 18 of this act, and who has become 60 years of age, and has a total service of 20 years, shall receive annually from the firemen's fund, as set out in this act, a sum equal to three and one-half percent (3 1/2%) of the total salary that he has received for the last 20 years of service with the department, said three and one-half percent (3 1/2%) shall be paid in monthly installments by the board of trustees of the firemen's fund; provided, however, that if the officer coming under the specifications of this section shall die, then the surviving spouse, so long as said surviving spouse remains unmarried, shall receive fifty percent (50%) of what the member would have received should he have lived.

(b) Any person coming under the specifications of Section 19 of this act and having reached the age of 66 years, and acquired a service record for 20 years shall receive the same pension as set out in subsection (a) of this section.

Sec. 22. Disability and death benefits. (a) If and in the event any member of the Asheville Fire Department qualifying under this act shall become disabled while acting in the line of his duties or as a result of the performance of duties as a member of the Asheville Fire Department, and is unable to work as a fireman, he shall receive monthly a sum equal to seventy percent (70%) of his monthly salary as then paid by the City of Asheville, said seventy percent (70%) of said monthly salary shall be paid in monthly installments by the board of trustees of the firemen's fund; provided, however, that if under the North Carolina Workmen's Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payment shall be deducted from the amount of his said monthly installment, and there shall be paid from the firemen's fund only such amount as may be required to make up his said monthly installment; provided, further, that if such member of the Asheville Fire Department shall be killed in the line of his duties, or shall die as a result of a disability as defined in this section, the surviving spouse shall receive, so long as said surviving spouse remains unmarried, the same monthly installment as the member would have received under this section; provided, further, that if, under the North Carolina Workmen's Compensation Act such surviving spouse elects to take a lump sum settlement of the amount due on account of the death of the member, then such surviving spouse, so long as said surviving spouse remains unmarried, shall receive from the firemen's fund each month a sum equal to the difference between the monthly installment that would have been received under the Workmen's Compensation Act and the amount of the deceased member's monthly installment, and such payments from the firemen's fund shall continue so long as said surviving spouse remains unmarried.

(b) If any member of the Asheville Fire Department, as set out in this act, becomes disabled not in the line of duty, he shall receive annually a sum equal to three and one-half percent (3 1/2%) of his total earnings from the beginning of his service on the Asheville Fire Department to the time of his disability; provided, however, that three years' service with the Asheville Fire Department is required before any member thereof can take advantage of this section; provided, further, that if such member should die from disability not received in the line of duty, the surviving spouse shall receive one-half of the pension paid to the member at the time of death so long as said surviving spouse remains unmarried.

(c) If any member of the Asheville Fire Department, as set out in this act, shall die leaving no surviving spouse entitled to benefits in accordance with Section 21 or 22 of this act, the funds deducted from such fireman's monthly salary and paid to the firemen's fund shall be paid as follows:

(1) to the child or children of such fireman in equal shares;

(2) if there is no surviving child or children, to the designated beneficiary of the fireman, if any;

(3) if there is no surviving child or children or designated beneficiary, to the executors or administrators of the fireman's estate.

Sec. 23. Reserved.

Sec. 24. Maximum benefits. In no event shall any fireman coming under the provisions of this act, receive annually more than three and one-half percent (3 1/2%) of his total salary for a period of 20 years, as set out in Sections 21 and 22(b) of this act.

Sec. 25. Board of examiners; appeals. (a) The mayor of the City of Asheville shall be the chairman of a board of examiners to determine the claims of firemen claimants under this act; the city manager of the City of Asheville shall be a member of said board; the council of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a citizen of the City of Asheville who is a medical doctor to be the third member of said board; the Police Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said police department, who shall not be the police chief, to be the fourth member of said board; the Fire Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said department, who shall not be the fire chief, to be the fifth member of said board; said third, fourth and fifth members shall serve until their successors are duly elected and qualified and said board shall have the power and authority to determine the claims of said firemen claimants coming under the provisions of this act and their decision shall be reported to the board of trustees for their approval.

(b) The board of trustees shall review the findings of the board of examiners and may approve or reverse the findings of the board of examiners.

(c) Any fireman claimant, his beneficiary or representative whose claim has been denied in whole or in part after review by the board of trustees shall have the right to appeal to the Asheville City Council. Such appeal must be filed by the fireman claimant, his beneficiary or representative in writing with the city clerk within 10 days after receipt of written denial of all or part of the claim by the board of trustees. Such appeal will be heard at a regular weekly city council meeting within six weeks of the filing of the appeal by said fireman claimant, his beneficiary or representative. The decision of the city council shall be final.

(d) The fireman claimant, his beneficiary or representative has the right to file an appeal within 30 days of the city council action outlined in subsection (c) of this section to a court of competent jurisdiction where the issues shall be heard and determined *de novo* with or without a jury.

Sec. 26. Investment of surplus funds. The board of trustees is hereby authorized and empowered to invest any surplus funds accumulated in what is known as the firemen's fund in obligations of the United States Government or obligations fully guaranteed both as to principal and interest by the United States Government or an agency of the United States Government; obligations of the State of North Carolina and certificates of deposit in any banks and shares of any savings and loan associations or building and loan associations operating in the State of North Carolina or credit unions to the extent insured by the government or an agency of the United States.

Sec. 27. Freezing membership in firemen's fund. From and after the effective date of any ordinance of the Asheville City Council establishing an employee retirement and disability plan covering employees of the City of Asheville assigned to the Asheville Fire Department under the classified

service of said city, future employees so assigned to the fire department shall participate in and contribute to such employee retirement and disability plan pursuant to the terms and conditions thereof, and shall not participate in or contribute to the pension plan established by this act; provided, however, that any such employees' retirement and disability plan hereafter established by ordinance of the Asheville City Council shall meet standards of actuarial soundness as required by North Carolina General Statutes 160A-163 and that the city shall contribute such sums of money to said plan as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 160A-163(d).

Sec. 28. No provision of this act shall be construed so as to modify in any respect the benefits granted under Chapters 242 and 243 of the 1939 Session Laws, amended by Chapters 310 and 311 of the 1945 Session Laws and Chapters 320 and 322 of the 1955 Session Laws to employees of the Asheville Police Department and the Asheville Fire Department assigned to said departments prior to the effective date of this act or to the effective date of any such employees' retirement and disability plan covering future employees of such departments; provided, however, that employees of said departments covered by this act may within one year after the effective date of any new plan, voluntarily and irrevocably elect in writing to withdraw from participation in said existing plan and to participate in and contribute to the new plan for their department, in which case they shall be entitled to no further benefits of said existing plan and shall be entitled to withdraw all contributions made by them into said plan.

Sec. 29. The board of examiners and the board of trustees heretofore established by this act may be granted additional authority to administer any new plans as the city council of the City of Asheville may deem advisable and authorized by enactment of appropriate ordinances.

Sec. 30. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 31. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

S. B. 175 CHAPTER 189

AN ACT TO AUTHORIZE THE CORONERS OF CLEVELAND AND RUTHERFORD COUNTIES TO ORDER AUTOPSIES TO BE PERFORMED AND TO COMPLETE THE MEDICAL CERTIFICATION OF DEATH WITH RESPECT TO DEATHS WITHIN THEIR JURISDICTIONS.

The General Assembly of North Carolina enacts:

Section 1. The coroners of Cleveland and Rutherford Counties shall have the authority to order autopsies to be performed by persons authorized by law to perform autopsies with respect to all deaths within their jurisdictions. The coroners may order autopsies to be performed on those deceased persons receiving Veteran's Administration disability benefits at the time of their death. The coroners shall also have the authority to make and sign the medical certification of death with respect to all deaths where there is no evidence of foul play within their jurisdictions. The provisions of this section shall not

affect the authority of the medical examiner under Article 21 of Chapter 130 of the General Statutes.

Sec. 2. Notwithstanding the provisions of G.S. 130-198, the coroners of Cleveland and Rutherford Counties shall have the authority to remove, or order the removal of, the body or anatomical material suspected of being or determined to be a part or parts of a human body from the scene of the death, in order that an investigation may continue.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

S. B. 257 CHAPTER 190

AN ACT TO AMEND CHAPTER 1436 OF THE 1957 SESSION LAWS RELATING TO THE CURRITUCK COUNTY GAME COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1436 of the 1957 Session Laws is hereby amended to read as follows:

"The hunting, shooting, killing, or trapping of any wild fowl consisting of geese, ducks, brant, or any other wild fowl from shore, marsh, blind, or floating device on or adjacent to the public waters of Currituck County shall be governed and regulated by the North Carolina Wildlife Commission and a duly constituted and appointed Game Commission of Currituck County, as hereinafter set forth, subject to the following regulations."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

S. B. 264 CHAPTER 191

AN ACT TO PERMIT PARTICIPATION IN CERTAIN FIELD TRIALS FOR BEAGLES WITHOUT A HUNTING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes of North Carolina is amended by inserting a new Section 113-98.1 to read as follows:

"§ 113-98.1. *Beagle trials.*—Any person may, without being required to obtain a hunting license, participate in a field trial for beagles which is scheduled in advance and approved by the Executive Director of the Wildlife Resources Commission to be conducted without the use or possession of firearms on a beagle field trial area consisting of not more than 100 acres of private land which is completely and permanently enclosed with a metal fence through which rabbits may not escape or enter at any time."

Sec. 2. This act shall become effective on August 1, 1977.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

H. B. 221 **CHAPTER 192**

AN ACT TO AMEND CHAPTER 58 OF THE GENERAL STATUTES TO REMOVE THE LIMITATION ON THE AMOUNTS OF COVERAGE OF CERTAIN TYPES OF GROUP INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-210(1)d., as the same appears in Replacement 1975 Volume 2B of the General Statutes, is amended by deleting the last sentence thereof to the end that the sub-subdivision in its entirety shall read as follows:

"d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustee."

Sec. 2. G.S. 58-210(3)d., as the same appears in Replacement 1975 Volume 2B of the General Statutes, is amended by deleting the last sentence thereof to the end that the sub-subdivision in its entirety shall read as follows:

"d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union."

Sec. 3. G.S. 58-210(4)d., as the same appears in Replacement 1975 Volume 2B of the General Statutes, is amended by deleting the last sentence thereof to the end that the sub-subdivision in its entirety shall read as follows:

"d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions."

Sec. 4. G.S. 58-210(5)e., as the same appears in Replacement 1975 Volume 2B of the General Statutes, is amended by deleting the last sentence thereof to the end that the sub-subdivision in its entirety shall read as follows:

"e. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the association."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

H. B. 389 **CHAPTER 193**

AN ACT TO REPEAL G.S. 55A-86 OF THE GENERAL STATUTES AND TO ADD NEW G.S. 55A-33.1 CONCERNING ACTION BY MEMBERS OF NONPROFIT CORPORATIONS WITHOUT A MEETING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-86 as the same appears in the 1975 Replacement Volume 2B of the General Statutes is hereby repealed.

Sec. 2. Chapter 55A of the General Statutes is hereby amended by adding a new G.S. 55A-33.1 to read as follows:

"§ 55A-33.1. *Action by members without a meeting.*—Any action required by this Chapter to be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof and filed with the secretary of the corporation as part of the corporate records, whether done before or after the action so taken."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

S. B. 138 CHAPTER 194

AN ACT TO AMEND THE AUTHORIZATION FOR A WHOLLY SELF-LIQUIDATING PROJECT FOR ELIZABETH CITY STATE UNIVERSITY THAT WAS ORIGINALLY ENACTED BY CHAPTER 693 OF THE 1971 SESSION LAWS AND WAS AMENDED BY CHAPTER 692 OF THE 1973 SESSION LAWS.

Whereas, the 1971 General Assembly authorized a wholly self-liquidating project for a dormitory building for Elizabeth City State University at an estimated cost of eight hundred eighty thousand dollars ($880,000)(based on four thousand four hundred dollars ($4,400) per student occupant), and the 1973 General Assembly increased the authorized cost to one million dollars ($1,000,000)(based on five thousand dollars ($5,000) per student occupant); and

Whereas, the authorized cost must now be increased to one million six hundred thousand dollars ($1,600,000)(based on eight thousand dollars ($8,000) per student occupant); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 4 of 1971 Session Laws Chapter 693, as amended by 1973 Session Laws Chapter 692, is further amended by rewriting the authorization for the Elizabeth City State University wholly self-liquidating 200-student dormitory building project on page 699 of the 1971 Session Laws to read as follows:

	Elizabeth City State University		
8.	Dormitory for 200 students	$ 1,500,000	
	Moveable equipment	100,000	
	Sub-total	$ 1,600,000	
	Less self-liquidating	$ 1,600,000	-0-

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

S. B. 139 CHAPTER 195

AN ACT TO AMEND THE AUTHORIZATION FOR WHOLLY SELF-LIQUIDATING PROJECTS FOR NORTH CAROLINA STATE UNIVERSITY AT RALEIGH THAT WERE ORIGINALLY ENACTED BY CHAPTER 523 OF THE 1973 SESSION LAWS AND WERE AMENDED BY CHAPTER 918 OF THE 1975 SESSION LAWS.

Whereas, the 1973 General Assembly authorized wholly self-liquidating projects for a parking structure, a residence hall, and married student housing for North Carolina State University at Raleigh at an estimated total cost of nine million sixty thousand dollars ($9,060,000) (based on cost estimates at that time), and the 1975 General Assembly increased the authorized cost to eleven million sixty thousand dollars ($11,060,000) (based on cost estimates at that time); and

Whereas, the total authorized cost for these projects must now be increased to thirteen million three hundred fifty thousand dollars ($13,350,000) (based on current cost estimates); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 4 of 1973 Session Laws Chapter 523, as amended by 1975 Session Laws Chapter 918, is further amended by rewriting the authorization for the North Carolina State University at Raleigh wholly self-liquidating parking structure, residence hall, and married student housing projects on pages 769 and 770 of the 1973 Session Laws to read as follows:

North Carolina State University at Raleigh

1.	Parking Structure II	$ 2,600,000	
	Less Self-Liquidating	2,600,000	-0-
2.	Residence Hall for 500 students	$ 3,350,000	
	Fixed Equipment	250,000	
	Movable Equipment	150,000	
		$ 3,750,000	
	Less Self-Liquidating	3,750,000	-0-
3.	Married Student Apartments	$ 6,600,000	
	Fixed Equipment	400,000	
		$ 7,000,000	
	Less Self-Liquidating	7,000,000	-0-

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

S. B. 141

CHAPTER 196

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS BY CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to authorize construction, by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed herein for each such institution, and to authorize the financing of the said capital improvements projects with funds available to said institutions from gifts, grants, receipts, special funds, self-liquidating indebtedness, or other funds, or any combination of such funds, but not including funds appropriated from the General Fund of the State.

Prior to the execution of design contracts for the projects authorized herein, the Advisory Budget Commission shall approve the method of funding such projects.

Sec. 2. The projects hereby authorized to be constructed and financed as provided in Section 1 of this act, are as follows:

1.	Appalachian State University		
	a.	Expansion of University Stadium	$1,300,000
	b.	Residence Hall	3,000,000
	c.	Student Support Facility	2,000,000

2.	East Carolina University	
	a. Stadium Expansion	2,500,000
3.	North Carolina Agricultural and Technical State University	
	a. Renovation of Dormitories	1,900,000
	b. Memorial Union	650,000
	c. Married Student and Faculty Housing	3,500,000
4.	North Carolina State University at Raleigh	
	a. Reynolds Coliseum	990,000
	b. Thompson Theatre	1,375,000
5.	The University of North Carolina at Chapel Hill	
	a. Frank Porter Graham Student Union	1,750,000
	b. Parking Deck	2,000,000
6.	The University of North Carolina at Charlotte	
	a. Student Housing	3,750,000
	b. Auxiliary Services Building	875,000
	c. Parking Lot	500,000
7.	The University of North Carolina at Greensboro	
	a. Renovations in Elliott University Center	550,000
	b. Five Handball - Racquetball Courts	200,000
	c. Renovate Recreation Areas in Freshman Halls	325,000
	d. Married Student Apartments	2,900,000
8.	The University of North Carolina at Wilmington	
	a. Student Parking Lots	150,000
	b. Student Union Building	2,200,000
	c. 200-Bed Student Residence Hall	1,500,000

Sec. 3. The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of the institution concerned, authorize an increase or decrease in the scope or a change in the method of funding of any project authorized by this act.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

S. B. 174

CHAPTER 197

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A PROJECT WHOLLY SELF-LIQUIDATING.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 523 of the 1973 Session Laws of North Carolina, with respect to 200 unconstructed wholly self-liquidating dormitory spaces, by increasing the allowance from five thousand dollars ($5,000) to an amount not to exceed eight thousand dollars ($8,000) per student occupant.

Sec. 2. Section 4 of said Chapter 523 of the 1973 Session Laws on page 771 of the 1973 Session Laws, under the institutional subheading as indicated and affecting only the project as listed in this act, is amended to read as follows:

University of North Carolina at Wilmington			
3.	One 200-Student Dormitory		
	Building	$1,500,000	
	Movable Equipment	100,000	
	Subtotal	$1,600,000	
	Less Self-Liquidating	$1,600,000	-0-

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

H. B. 388

CHAPTER 198

AN ACT TO RECONSTITUTE THE DEPARTMENT OF COMMERCE; TO TRANSFER THE DIVISION OF ECONOMIC DEVELOPMENT FROM THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO THE DEPARTMENT OF COMMERCE; TO CREATE AN ECONOMIC DEVELOPMENT BOARD, AND A LABOR FORCE DEVELOPMENT COUNCIL WITHIN THE DEPARTMENT OF COMMERCE; AND TO TRANSFER THE SCIENCE AND TECHNOLOGY CENTER, THE SCIENCE AND TECHNOLOGY COMMITTEE AND THE NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL FROM THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO THE DEPARTMENT OF COMMERCE AND TO MAKE NECESSARY CONFORMING CHANGES IN THE GENERAL STATUTES OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

——DEPARTMENT OF COMMERCE/RECONSTITUTED.

Section 1. G.S. Chapter 143B is amended by adding at the end thereof an Article 10 to read as follows:

"ARTICLE 10.

"Department of Commerce.

"Part 1. General Provisions.

"§ 143B-401. *Department of Commerce; creation.*—There is hereby recreated and reconstituted a department to be known as the 'Department of Commerce',

with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Article.

"§ 143B-402. *Declaration of policy.*—It is hereby declared to be the policy of the State of North Carolina to actively encourage the expansion of existing environmentally sound North Carolina industry; to actively encourage the recruitment of environmentally sound national and international industry into North Carolina through industrial recruitment efforts and through effective advertising, with an emphasis on high-wage-paying industry; to promote the development of North Carolina's labor force to meet the State's growing industrial needs; to promote the growth and development of our travel and tourist industries; to promote the development of our State ports; to promote the management of North Carolina's energy resources and the development of a State energy policy; and to assure throughout State government, the coordination of North Carolina's economic development efforts.

"§ 143B-403. *Department of Commerce duties.*—It shall be the duty of the Department of Commerce to provide for and promote the implementation of the declared policy of the State of North Carolina as provided in G.S. 143B-402, to promote and assist in the total economic development of North Carolina in accord with such declared policy and to perform such other duties and functions as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State.

"§ 143B-404. *Secretary of Commerce; powers and duties.*—The head of the Department of Commerce is the Secretary of Commerce. The Secretary of Commerce shall have such powers and duties as are conferred on him by this Chapter, delegated to him by the Governor, and conferred on him by the Constitution and laws of this State. The Secretary of Commerce shall be responsible for effectively and efficiently organizing the Department of Commerce to promote the policy of the State of North Carolina as outlined in G.S. 143B-402 and to promote statewide economic development in accord with that policy. Except as otherwise specifically provided in this Article and in Article 1 of this Chapter, the functions, powers, duties and obligations of every agency or subunit in the Department of Commerce shall be prescribed by the Secretary of Commerce.

"§ 143B-405. *Department of Commerce; functions.*—The functions of the Department of Commerce, except as otherwise expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall include:

(1) all of the executive functions of the State in relation to economic development including by way of enumeration and not of limitation, the expansion and recruitment of environmentally sound industry, labor force development, the promotion and growth of the travel and tourism industries, the development of our State's ports, energy resource management and energy policy development;

(2) all functions, powers, duties and obligations heretofore vested in any agency enumerated in Article 15 of G.S. Chapter 143A, to wit:

a. The State Board of Alcoholic Control,
b. The North Carolina Utilities Commission,
c. The Employment Security Commission,
d. The North Carolina Industrial Commission,
e. State Banking Commission and the Commissioner of Banks,
f. Savings and Loan Association Division,

g. The State Savings and Loan Commission,
h.Credit Union Commission,
i. The North Carolina Milk Commission,
j. The North Carolina Mutual Burial Association Commission,
k. The North Carolina Rural Electrification Authority,
l. The North Carolina State Ports Authority,

all of which enumerated agencies are hereby expressly transferred by a Type II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted Department of Commerce; and,

(3) all other functions, powers, duties and obligations as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State.

Any agency transferred to the Department of Commerce by a Type II transfer, as defined by G.S. 143A-6, shall have the authority to employ, direct and supervise professional and technical personnel, and such agencies shall not be accountable to the Secretary of Commerce in their exercise of quasi-judicial powers authorized by statute, notwithstanding any other provisions of this Chapter, provided that the authority of The North Carolina State Ports Authority to employ, direct and supervise personnel shall be as provided in Part 10 of this Article.

"§ 143B-406. *Transfers to Department of Commerce.*—The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, the Science and Technology Research Center of the Department of Natural and Economic Resources, and the North Carolina National Park, Parkway and Forests Development Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6.

"§ 143B-407. *Department of Commerce; organization.*—The Department of Commerce shall be organized to include: (1) The State Board of Alcoholic Control, (2) The North Carolina Utilities Commission, (3) The Employment Security Commission, (4) The North Carolina Industrial Commission, (5) State Banking Commission, (6) Savings and Loan Association Division, (7) The State Savings and Loan Commission, (8) Credit Union Commission, (9) The North Carolina Milk Commission, (10) The North Carolina Mutual Burial Association Commission, (11) North Carolina Cemetery Commission, (12) The North Carolina Rural Electrification Authority, (13) Science and Technology Committee, (14) North Carolina Science and Technology Research Center, (15) The North Carolina State Ports Authority, (16) North Carolina National Park, Parkway and Forests Development Council, (17) Economic Development Board, (18) Labor Force Development Council, (19) Energy Policy Council, (20) Energy Division, (21) Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes, and such divisions as may be established pursuant to Article 1 of this Chapter.

"Part 2.

"Economic Development.

"§ 143B-410. *Economic Development Board; creation, duties, membership.*—(a) There is hereby created within the Department of Commerce an Economic Development Board which, in conjunction with the Secretary of Commerce, shall be responsible for promoting the economic development of North Carolina

in accord with the policy of the State of North Carolina as set out in G.S. 143B-402. In conjunction with the Secretary of Commerce, the Economic Development Board shall formulate a program for the economic development of the State of North Carolina and assist the Secretary of Commerce in carrying out his duties and powers as the chief economic development spokesman and administrator for the State in matters relating to the expansion of existing industry, the recruitment of new industry and the expansion of the travel and tourism industries. The Secretary of Commerce shall prepare a budget, which shall be subject to the approval of the Economic Development Board, for each division of the Department of Commerce concerned with the expansion of existing industry, the recruitment of new industry and the expansion of the travel and tourism industries. The Secretary of Commerce, with the approval of the Economic Development Board, shall hire the head of each such division and each such person shall serve at the pleasure of the Secretary of Commerce. The Economic Development Board shall meet at least bimonthly at the call of the Chairman of the Economic Development Board or the Secretary of Commerce.

The Economic Development Board shall consist of 25 members. The Secretary of Commerce, the Lieutenant Governor, and the Speaker of the House of Representatives shall be members of the Economic Development Board. The Governor shall appoint 22 members to the board.

The initial appointments by the Governor shall be made on or after the date of ratification, 11 terms to expire July 1, 1979, and 11 terms to expire on July 1, 1981. Thereafter, at the expiration of each stipulated term of office all appointments made by the Governor shall be for a term of four years. Any vacancy occurring in the membership of the Economic Development Board appointed by the Governor shall be filled by the Governor for the unexpired term. The Governor shall have the authority to remove any member of the Economic Development Board appointed by the Governor.

The Governor shall designate from among the members of the Economic Development Board a chairman and a vice-chairman. The Secretary of Commerce or his designee shall serve as Secretary of the Economic Development Board. If a vacancy occurs in the Office of the Lieutenant Governor, the President Pro Tempore shall fill the vacancy. If a vacancy occurs in the Office of the Speaker of the House of Representatives, the Speaker Pro Tempore shall fill the vacancy.

The members of the Economic Development Board appointed by the Governor shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies generally pursuant to G.S. 138-5 and G.S. 138-6, as the case may be; provided, however, that the Chairman of the Economic Development Board and the Lieutenant Governor shall not be entitled to receive per diem in addition to salary. The members of the Economic Development Board who are members of the General Assembly shall not receive per diem but shall receive necessary travel and subsistence expenses at rates prescribed by G.S. 120-3.1.

(c) All clerical and other services required by the Economic Development Board shall be supplied by the Secretary of Commerce.

(d) It shall be the duty of the Chairman of the Economic Development Board: (1) to organize the work of the Economic Development Board into committees with respect to the divisions of the Department of Commerce

concerned with the expansion of existing industry, the recruitment of new industry and the expansion of the travel and tourism industries and (2) to assign responsibilities to each committee. The salary of the Chairman of the Economic Development Board shall be set by the Governor with the approval of the Advisory Budget Commission.

(G.S. 143B-411 to G.S. 143B-419: Reserved for future codification.)

"Part 3.

"Labor Force Development.

"§ 143B-420. *Labor Force Development Council; creation, duties and responsibilities.*—(a) There is hereby created within the Department of Commerce a Labor Force Development Council, hereinafter referred to as the Council, to be responsible for advising and assisting the Secretary of Commerce in developing and carrying out policies and programs related to the development and utilization of the labor force to support industrial and economic expansion in North Carolina. The Council shall be responsible for:

(1) formulating and recommending to the Secretary of Commerce and the Governor labor force policies and objectives to support industrial expansion;

(2) providing for the effective participation of leading business, labor and education leaders in developing active support for policy and programs that will contribute to economic expansion and development of labor force capabilities to support industrial expansion;

(3) making recommendations to appropriate State agencies, the Governor, and the citizens of the State on improving the effectiveness of employment training and related labor force development services to support industrial expansion efforts; and

(4) advising and assisting the Secretary of Commerce in such additional areas that may be deemed appropriate by the Secretary of Commerce.

(b) The Council shall consist of 13 members. The Secretary of Commerce shall be a member. Twelve members shall be appointed by the Governor, at least one of whom shall represent the Department of Community Colleges. Initial terms of office for the 12 members appointed by the Governor shall be as follows: Three members shall be appointed for terms ending July 1, 1979; three members for terms ending July 1, 1980, and six members for terms ending July 1, 1981. Subsequent appointments shall be for four years. Any vacancy occurring in the membership of the Council shall be filled by appointment of the Governor for the unexpired term. The Governor shall have the authority to remove any member.

(c) The Secretary of Commerce shall serve as chairman of the Council. The Secretary of Commerce shall be responsible for establishing operating procedures, providing clerical and other services required by the Council, and calling meetings of the Council, which shall meet not less than annually. Members shall receive the per diem and reimbursement for necessary expenses payable to members of boards and agencies generally pursuant to G.S. 138-5, G.S. 138-6 or G.S. 120-3.1.

(G.S. 143B-421 to G.S. 143B-424: Reserved for future codification purposes.)

"PART 4.

"Credit Union Commission.

(G.S. 143B-425 to G.S. 143B-429: Reserved for future codification purposes.)

"PART 5.
"Science and Technology Committee.
(G.S. 143B-430 to G.S. 143B-434: Reserved for future codification purposes.)
"PART 6.
"North Carolina Science and Technology Research Center.
(G.S. 143B-435 to G.S. 143B-439: Reserved for future codification purposes.)
"PART 7.
"North Carolina National Park, Parkway
and Forests Development Council.
(G.S. 143B-440 to G.S. 143B-444: Reserved for future codification purposes.)
"PART 8.
"Energy Division.
(G.S. 143B-445 to G.S. 143B-449: Reserved for future codification purposes.)
"PART 9.
"Navigation and Pilotage Commissions.
(G.S. 143B-450 to G.S. 143B-454: Reserved for future codification purposes.)
"PART 10.
"North Carolina State Ports Authority.
(G.S. 143B-455 to G.S. 143B-474: Reserved for future codification purposes.)"

——SCIENCE AND TECHNOLOGY COMMITTEE/CONFORMING CHANGES.

Sec. 2. Whenever the words "Natural and Economic Resources" are used in G.S. 143B-331 and G.S. 143B-332, the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof.

——SCIENCE AND TECHNOLOGY RESEARCH CENTER/CONFORMING CHANGES.

Sec. 3. G.S. 143-375 is amended by deleting from the section catch line the words "Board of Science and Technology" and inserting in lieu thereof the words "Science and Technology Committee".

Sec. 4. G.S. 143-375 is amended by deleting from the third line thereof the words "North Carolina Board of Science and Technology" and inserting in lieu thereof the words "Science and Technology Committee".

——NORTH CAROLINA PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL/CONFORMING CHANGES.

Sec. 5. Whenever the words "Natural and Economic Resources" are used in the provisions of G.S. 143B-322 and G.S. 143B-323, the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof.

——NAV. AND PILOTAGE COMM./TRANSFERS AND CONFORMING CHANGES.

Sec. 6. All Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes are hereby transferred to the Department of Commerce by a Type II transfer, as defined by G.S. 143A-6.

——PORTS AUTHORITY/CONFORMING CHANGES.

Sec. 7. G.S. 143-218, as the same appears in the 1975 Supplement to 1974 G.S. Replacement Volume 3C, as amended by Chapter 65 of the 1977 Session Laws, is hereby amended by deleting the word "Article" wherever the same appears in said section and by inserting in lieu thereof the word "Part".

Sec. 8. G.S. 143-224(d) is hereby amended by deleting the words "Executive Director" at line 1 of said subsection, and by inserting in lieu thereof the word "Chairman".

Sec. 9. G.S. 143-216 through G.S. 143-228.1 as the same appear in the 1974 Replacement Volume 3C of the General Statutes of North Carolina and the 1975 Cumulative Supplement to Volume 3C of the General Statutes, and as amended by the ratification of House Bill 189 of the 1977 Session are recodified as follows:

G.S. 143-216 recodified as G.S. 143B-455.
G.S. 143-217 recodified as G.S. 143B-456.
G.S. 143-218 recodified as G.S. 143B-457.
G.S. 143-218.1 recodified as G.S. 143B-458.
G.S. 143-219 recodified as G.S. 143B-459.
G.S. 143-220 recodified as G.S. 143B-460.
G.S. 143-221 recodified as G.S. 143B-461.
G.S. 143-222 recodified as G.S. 143B-462.
G.S. 143-223 recodified as G.S. 143B-463.
G.S. 143-224 recodified as G.S. 143B-464.
G.S. 143-225 recodified as G.S. 143B-465.
G.S. 143-226 recodified as G.S. 143B-466.
G.S. 143-227 recodified as G.S. 143B-467.
G.S. 143-227.1 recodified as G.S. 143B-468.
G.S. 143-228 recodified as G.S. 143B-469.
G.S. 143-228.1 recodified as G.S. 143B-470.

——DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES/CONFORMING CHANGES.

Sec. 10. G.S. 143B-276 is rewritten to read as follows:

"§ 143B-276. *Department of Natural and Economic Resources; duties.*—It shall be the duty of the Department of Natural and Economic Resources to provide for management and protection of the State's natural resources and environment."

Sec. 11. G.S. 143B-277 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is amended by deleting on the fifth line of subsection (a) thereof the words "economic development and".

Sec. 12. G.S. 143B-277 as the same appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3C of the General Statutes is hereby amended by deleting from subsection (b) thereof all of subdivision (2) and all of subdivision (6).

Sec. 13. G.S. 143B-305 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina is amended by deleting all of subsections (3) and (4) thereof and by renumbering subsection (5) as subsection (3).

Sec. 14. Whenever the words "Community and Economic Development Council" are used in the provisions of G.S. 143B-305 through G.S. 143B-307, the same shall be deleted and the words "Community Development Council" shall be inserted in lieu thereof.

Sec. 15. G.S. 113-3 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting subsection (3).

Sec. 16. G.S. 113-8 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting on the third line of the first paragraph the words "industrial and commercial".

Sec. 17. G.S. 113-8 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting the fifth paragraph and the seventh paragraph thereof.

Sec. 18. G.S. 113-14.1 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting from subsection (b) thereof subparagraphs (1), (2) and (3).

Sec. 19. G.S. 113-15.2 is rewritten to read as follows:

"§ 113-15.2. *Investigation of impact of proposed new and expanding industry.*—The Department of Commerce shall conduct an evaluation in conjunction with the Department of Natural and Economic Resources of the effects on the State's natural and economic environment of any new or expanding industry or manufacturing plant locating in North Carolina."

Sec. 20. Whenever the words "Natural and Economic Resources" are used in the provisions of G.S. 113-14 and G.S. 113-15 the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof.

——EXECUTIVE ORGANIZATION ACT OF 1973/CONFORMING CHANGES.

Sec. 21. G.S. 143B-2 as the same appears in the 1975 Cumulative Supplement to Replacement Volume 3C of the General Statutes is amended by inserting at the end thereof the following:

"(9) Department of Commerce."

Sec. 22. G.S. 143B-6 as the same appears in the 1975 Cumulative Supplement to Replacement Volume 3C of the General Statutes is amended by inserting at the end thereof the following:

"(9) Department of Commerce."

——INDUSTRIAL AND POLLUTION CONTROL FACILITIES FINANCING ACT/CONFORMING CHANGES.

Sec. 23. Whenever the words "Natural and Economic Resources" are used in the provisions of G.S. 159C-4, G.S. 159C-7 and G.S. 159C-8, the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof. G.S. 159C-7 is hereby amended by adding as a new first sentence to the third paragraph thereof the following:

"In no case shall the Secretary of the Department of Commerce make the findings required by subparagraphs 1(b) and 2 of this section unless he shall have first received a certification from the Department of Natural and Economic Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur."

Sec. 24. All existing rules and regulations of the North Carolina Department of Natural and Economic Resources applicable to General Statutes Chapter 159C shall continue in full force and effect as rules and regulations of the North Carolina Department of Commerce as successor of the Department of Natural and Economic Resources until repealed, modified or amended by the Department of Commerce.

——LIST OF STATUTES EXPRESSLY REPEALED.

Sec. 25. The following sections of the General Statutes are hereby repealed: G.S. 143A-171 through G.S. 143A-180 and G.S. 143A-182 through G.S. 143A-185.1.

——INSTRUCTIONS TO CODIFIERS OF STATUTES.

Sec. 26. The Codifier of the General Statutes shall renumber and recodify these sections of the General Statutes as follows:

G.S. 113-14 recodified as G.S. 143B-411.
G.S. 113-15 recodified as G.S. 143B-412.
G.S. 113-15.2 recodified as G.S. 143B-413.
G.S. 143-374 recodified as G.S. 143B-435.
G.S. 143-375 recodified as G.S. 143B-436.
G.S. 143-376 recodified as G.S. 143B-437.
G.S. 143-377 recodified as G.S. 143B-438.
G.S. 143A-180.1 recodified as G.S. 143B-445.
G.S. 143A-180.2 recodified as G.S. 143B-446.
G.S. 143A-181 recodified as G.S. 143B-425.
G.S. 143B-322 recodified as G.S. 143B-440.
G.S. 143B-323 recodified as G.S. 143B-441.
G.S. 143B-331 recodified as G.S. 143B-430.
G.S. 143B-332 recodified as G.S. 143B-431.
G.S. 143B-354 recodified as G.S. 143B-450.

Sec. 27. The Codifier of the General Statutes shall codify the provisions of Chapter 143B of the General Statutes in Article 10 thereof as follows:

G.S. 143B-401 through G.S. 143B-409 in Part 1.
G.S. 143B-410 through G.S. 143B-419 in Part 2.
G.S. 143B-420 through G.S. 143B-424 in Part 3.
G.S. 143B-425 through G.S. 143B-429 in Part 4.
G.S. 143B-430 through G.S. 143B-434 in Part 5.
G.S. 143B-435 through G.S. 143B-439 in Part 6.
G.S. 143B-440 through G.S. 143B-444 in Part 7.
G.S. 143B-445 through G.S. 143B-449 in Part 8.
G.S. 143B-450 through G.S. 143B-454 in Part 9.
G.S. 143B-455 through G.S. 143B-519 in Part 10.

——GENERAL TRANSFER.

Sec. 28. All records, personnel, property, and unexpended balances of appropriations to any agency or subunit transferred by this act to the recreated and reconstituted Department of Commerce are hereby transferred in accordance with the provisions of this act to the said Department of Commerce.

Sec. 29. All transfers of personnel, equipment, appropriations and functions of an agency or division transferred by this act to the recreated and reconstituted Department of Commerce shall be completed by July 1, 1977, but the Secretary of Commerce shall have the authority over such personnel, equipment, appropriations and functions transferred by this act upon the effective date of this act. Nothing in this section is intended to supersede G.S. 143B-405(3), as added by this act, or Chapter 65 of the Session Laws of 1977.

Sec. 29.1. The Department of Commerce is hereby authorized to utilize funds awarded from the Contingency and Emergency Fund by the Council of State for the expenses of the Economic Development Board and the Labor Force Development Council and the members and officers thereof as may be required for the remainder of the 1976-77 fiscal year.

Sec. 30. Any amendment enacted during the 1977 General Assembly to a General Statutes Section that is directed by this act to be recodified shall be construed as an amendment to the section to be recodified.

——SEVERABILITY.

Sec. 31. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions of this act or applications which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

——RATIFICATION DATE.

Sec. 32. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1977.

S. B. 274 CHAPTER 199

AN ACT TO AMEND G.S. 143-437 RELATING TO THE FUNCTIONS OF THE PESTICIDE BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-437 is amended by adding thereto the following:

"(8) To exempt any federal or State agency from any provision of this Article if it is determined by the board that emergency conditions exist which require exemption."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1977.

H. B. 345 CHAPTER 200

AN ACT TO REPEAL CHAPTER 697, SESSION LAWS OF 1969, RELATING TO A JOINT AIRPORT FOR CITIES OF LINCOLNTON AND CHERRYVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 697, Session Laws of 1969, is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 408 CHAPTER 201

AN ACT TO AMEND CHAPTER 159 OF THE GENERAL STATUTES OF NORTH CAROLINA BY PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF REFUNDING BONDS; TO PERMIT THE ISSUANCE OF SPECIAL OBLIGATION BONDS PAYABLE SOLELY FROM THE PROCEEDS OF SECURITIES PURCHASED WITH THE PROCEEDS OF REFUNDING BONDS AND SPECIAL OBLIGATION REFUNDING BONDS; AND TO PERMIT THE PRIVATE SALES OF CERTAIN REFUNDING BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-72 is hereby amended to read as follows:

"§ 159-72. A unit of local government may issue funding and refunding bonds under this Article for the purposes listed in G.S. 159-48(a)(4), (5), (6), or (7). Funding bonds may be issued if the debt, judgment, or other obligation to be paid is payable at the time of the passage of the bond order or within one year thereafter. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds shall be applied only as follows: either (i) to the immediate payment and retirement of the obligations being refunded or (ii) if not required for the immediate payment of the obligations being refunded such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, and to pay any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any amounts in excess of the amounts required for such purposes, including, without limitation, provision for the pledging of any such excess to the payment of the principal of and interest on any issue or series of refunding bonds issued pursuant to Section 159-78. Money in any such trust fund may be invested in (a) direct obligations of the United States government, or (b) obligations the principal of and interest on which are guaranteed by the United States government, or (c) to the extent then permitted by law in obligations of any agency or instrumentality of the United States government, or (d) in certificates of deposit issued by a bank or trust company located in the State of North Carolina if such certificates shall be secured by a pledge of any of said obligations described in (a), (b), or (c) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

The principal amount of refunding bonds issued pursuant to this section, together with the principal amount of refunding bonds, if any, issued under G.S. 159-78 in conjunction with refunding bonds issued pursuant to this section, shall not exceed the amount set forth in G.S. 159-78.

Except as expressly modified in this Part, funding and refunding bonds issued under the provisions of this Part shall be subject to the limitations and procedures set out in Parts 1 and 2 of this Article."

Sec. 2. Chapter 159 is amended by adding a new section numbered G.S. 159-78 which shall read as follows:

"§ 159-78. *Special obligation refunding bonds.*—In conjunction with the issuance of refunding bonds pursuant to G.S. 159-72 or G.S. 159-84 a unit of local government may issue a series of refunding bonds which shall be payable from the excess of the amount required by a trust fund established pursuant to G.S. 159-72 or G.S. 159-84 to provide for the payment and retirement of the obligations being retired and the amount required to pay any expenses incurred in connection with such refunding to the extent such expenses are payable from said trust fund.

Such refunding bonds shall be special obligations of the municipality issuing them. The principal of and interest on such refunding bonds shall not be payable from the general funds of the municipality, nor shall they constitute a

legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the trust fund established pursuant to G.S. 159-72 or G.S. 159-84 from which such refunding bonds are payable. Neither the credit nor the taxing power of the municipality is pledged for the payment of the principal or interest of such refunding bonds, and no holder of such refunding bonds has the right to compel the exercise of the taxing power of the municipality or the forfeiture of any of its property in connection with any default thereon. Every such refunding bond shall recite in substance that the principal of and interest on the bond is payable solely from the trust fund established for its payment and that the municipality is not obligated to pay the principal or interest except from such trust fund.

Any refunding bonds issued under this section shall be issued in compliance with the procedure set forth in Article V of this Chapter.

The principal amount of any issue of refunding bonds issued pursuant to G.S. 159-72 or G.S. 159-84, together with the principal amount of refunding bonds, if any, issued pursuant to this section in conjunction with a series of bonds issued under G.S. 159-72 or G.S. 159-84, shall not exceed the sum of the following: (a) the principal amount of the obligations being refinanced, (b) applicable redemption premiums thereon, (c) unpaid interest on such obligations to the date of delivery or exchange of the refunding bonds, (d) in the event the proceeds from the sale of the refunding bonds are to be deposited in trust as provided by G.S. 159-72 or G.S. 159-84, interest to accrue on such obligations being refinanced from the date of delivery of the refunding bonds to the first or any subsequent available redemption date or dates selected, in its discretion, by the governing body of the unit of local government, or to the date or dates of maturity, whichever shall be determined by the governing body of the unit of local government to be most advantageous or necessary and (e) expenses, including bond discount, deemed by the governing body to be necessary for the issuance of the refunding bonds."

Sec. 3. G.S. 159-84 is amended by adding two new paragraphs at the end of said section to read as follows:

"Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds shall be applied only as follows: either, (i) to the immediate payment and retirement of the obligations being refunded or (ii) if not required for the immediate payment of the obligations being refunded such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, and to pay any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any amounts in excess of the amounts required for such purposes, including, without limitation, provision for the pledging of any such excess to the payment of the principal of and interest on any issue or series or refunding bonds issued pursuant to Section 159-78. Money in any such trust fund may be invested in (a) direct obligations of the United States government or (b) obligations the principal of and interest on which are guaranteed by the United States government, or (c) to the extent then permitted by law in obligations of any agency or instrumentality of the United States government, (d) certificates of deposit issued by a bank or trust company located in the State of North Carolina if such certificates shall be secured by a pledge of any of said obligations described in (a), (b), or (c) above having any aggregate market value,

exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

The principal amount of refunding bonds issued pursuant to this section, together with the principal amount of refunding bonds, if any, issued under G.S. 159-78 in conjunction with refunding bonds issued pursuant to this section, shall not exceed the amount set forth in G.S. 159-78."

Sec. 4. G.S. 159-123(b) is amended by rewriting subdivision (3) thereof and adding new subdivisions (4) and (5) as follows:

"(3) Revenue bonds, including any refunding bonds issued pursuant to Section 159-84.

(4) Refunding bonds issued pursuant to G.S. 159-78.

(5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit."

Sec. 5. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 483 CHAPTER 202

AN ACT RELATING TO THE DISTRIBUTION OF THE PROFITS FROM THE OPERATION OF THE DARE COUNTY ALCOHOLIC BEVERAGE CONTROL BOARD.

The General Assembly of North Carolina enacts:

Section 1. After deducting the amounts required to be expended for enforcement and paying salaries and expenses, the Dare County Alcoholic Beverage Control Board shall determine and retain from gross profits a sufficient and proper amount necessary to be retained as working capital.

The entire remaining net profits shall be paid over to the Dare County Board of County Commissioners which shall allocate said funds as follows:

(1) an amount equal to forty-two and one-half percent (42.5%) of the amount of funds remaining after the Dare County Alcoholic Beverage Control Board's determination of the amount necessary to be retained for working capital shall be allocated to the Dare County Tourist Bureau to be used for publicity and promotional purposes in building the tourist industry of Dare County, thereby benefiting the economy and citizens of said county;

(2) up to twenty percent (20%) of net profits may be allocated to the Dare County Alcoholic Beverage Control Board for capital improvements;

(3) fifteen percent (15%) of the net profits remaining shall be divided between the incorporated towns within Dare County, the Town of Kill Devil Hills, the Town of Manteo, and the Town of Nags Head, such sums to go to the general fund of each of said incorporated towns to be used for any governmental purpose deemed necessary by the governing body of said town;

(4) any remaining net profits shall go to the general fund of the county to be expended for any lawful purpose.

Sec. 2. All other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 493 CHAPTER 203

AN ACT TO PERMIT THE POSTPONEMENT OF THE COLLECTION OF ASSESSMENTS FOR THE ELDERLY OR DISABLED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-233 is hereby amended by adding thereto a new subsection (e) as follows:

"(e) Where the owner of property subject to assessments meets the requirements of G.S. 105-277.1, being 65 years of age or older, or totally and permanently disabled and having a disposable income as specified in G.S. 105-277.1, interest on the assessment shall accrue at the rate established by the governing board of the city, but not more than eight percent (8%) per annum, but the assessment, while it becomes a lien against the property, shall not become due and payable until the property is no longer owned by the owner meeting the requirements of G.S. 105-277.1, and the 10 year statute of limitation set forth in subsection (d) above shall not begin to run against the assessment until property is no longer owned by said owner."

Sec. 2. This act shall apply to Forsyth County only.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 524 CHAPTER 204

AN ACT TO CHANGE THE NAME OF THE SANFORD-LEE COUNTY BOARD OF EDUCATION TO THE LEE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Sanford-Lee County Board of Education shall hereafter be known and referred to as the Lee County Board of Education. The purpose of this act is to effectuate a change in title only and does not affect any duties, responsibilities or liabilities heretofore incurred by the Sanford-Lee County Board of Education, all of which duties, responsibilities, or liabilities shall as of the effective date of this act be incurred by the Lee County Board of Education.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 557 **CHAPTER 205**

AN ACT TO PROVIDE FOR THE ELECTION AND TERM OF THE BOARD OF COUNTY COMMISSIONERS OF CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Cabarrus County shall consist of five members who shall serve for staggered terms of four years as herein provided.

Beginning with the regular primary and general election for county officers to be held in 1978, there shall be nominated and elected five commissioners who shall be nominated and elected by the voters of the entire county. In the 1978 general election, the three candidates receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years.

Sec. 2. The portions of Chapter 451, Public-Local Laws of 1939 relating to the election and terms of the county commissioners, and all other laws in conflict with this act, are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 561 **CHAPTER 206**

AN ACT TO REDUCE THE MEMBERSHIP OF THE HYDE COUNTY BOARD OF EDUCATION TO FIVE AND TO PROVIDE FOR THEIR ELECTION.

The General Assembly of North Carolina enacts:

Section 1. The present members of the Hyde County Board of Education shall continue to serve until their successors are elected as provided in this act.

Sec. 2. The Board of Education of Hyde County shall consist of five members who shall be elected on a nonpartisan basis at the time of the primary election for county officers. Beginning with the election to be held in 1978, three members shall be elected for terms of four years and one of the members elected in 1978, and every four years thereafter, shall be a resident of Ocracoke. In 1980, as the terms of the present members expire, two members shall be elected for terms of four years. Thereafter, as the terms of each member expire, successors shall be elected for terms of four years.

Except as provided herein, Article 5 of Chapter 115 of the General Statutes shall be applicable to the Hyde County Board of Education.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 562 **CHAPTER 207**

AN ACT TO CHANGE THE NAME OF THE TOWN OF EARL STATION TO EARL.

The General Assembly of North Carolina enacts:

Section 1. The name of the Town of Earl Station in Cleveland County is changed to Earl.

Sec. 2. The charter of the Town of Earl Station, Chapter 787 of the 1971 North Carolina Session Laws, is amended by deleting "Station" in Sections 2 and 3.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 570 **CHAPTER 208**

AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS IN YADKIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Yadkin County shall consist of five members who shall be nominated and elected by the voters of the entire county. The primary and general election shall be held and conducted as provided in Chapter 163 of the General Statutes.

Sec. 2. In the election of 1978, two commissioners shall be elected for terms of four years. The remaining three members of the commission shall be the three commissioners elected in the election of 1976 for terms expiring in 1980.

Sec. 3. In 1980 and biennially thereafter three commissioners shall be elected as follows: The two candidates receiving the highest and second highest vote shall serve terms of four years. The candidate receiving the third highest number of votes shall serve a term of two years.

Sec. 4. A vacancy occurring in the board of commissioners shall be filled for the unexpired term as now provided by general law.

Sec. 5. Chapters 157 and 351 of the 1973 Session Laws and all law and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall apply only to Yadkin County.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 613 **CHAPTER 209**

AN ACT TO PROVIDE THAT THE MAYOR AND MEMBERS OF THE BOARD OF ALDERMEN OF THE TOWN OF ANDREWS SHALL BE ELECTED FOR A TERM OF FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. Beginning with the regular municipal election to be held in the Town of Andrews for municipal officials in 1977, those persons elected as mayor and as members of the board of aldermen, and their successors, shall be elected for terms of four years.

Sec. 2. Chapter 222, Public-Local Laws of 1937, is repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 614 **CHAPTER 210**

AN ACT TO CHANGE THE TERM OF THE MEMBERS OF THE BOARD OF COMMISSIONERS AND THE MAYOR OF THE TOWN OF HAYESVILLE TO FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. Section 12, Chapter 468, Private Laws of 1913, as amended by Chapter 983, Session Laws of 1965, is hereby amended by rewriting the first two paragraphs to read as follows:

"Sec. 12. Beginning with the regular municipal election for town officials to be held in 1977, the term of office for the Mayor and the members of the Board of Commissioners for the Town of Hayesville shall be for four years. The mayor and members of the board of commissioners shall qualify as provided in G.S. 160A-68.

The municipal elections in the Town of Hayesville shall be governed by the applicable laws of Articles 23 and 24 of Chapter 163 of the General Statutes, except as otherwise provided herein."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 683 **CHAPTER 211**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CHADBOURN TO CONFER CERTAIN POWERS UPON THE GOVERNING BODY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 93, Private Laws of 1883, as amended, is hereby rewritten to read as follows:

"Sec. 3. The Board of Commissioners of the Town of Chadbourn is authorized to appoint a town manager pursuant to the provisions of Part 2, Article 7 of Chapter 160A of the General Statutes and may delegate to the town manager any or all powers as listed in G.S. 160A-148. The town board is authorized to appoint a town treasurer, tax collector, town clerk, fire chief, and chief of police. The board of commissioners shall have all those powers

conferred upon municipal governing bodies by Chapter 160A of the General Statutes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

S. B. 290 CHAPTER 212

AN ACT TO PROVIDE THAT THE MAYOR AND MEMBERS OF THE BOARD OF COMMISSIONERS OF THE TOWN OF RED OAK SHALL BE ELECTED FOR TERMS OF FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 799, Session Laws of 1961, is hereby amended by rewriting the first sentence of Section 4 to read:

"The regular municipal election in the Town of Red Oak shall be held, beginning on the Tuesday after the first Monday in November 1977, and every four years thereafter, by the county board of elections, in accordance with G.S. 163-279(a)(1), and the applicable provisions of Article 23 and 24 of Chapter 163 of the General Statutes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

S. B. 328 CHAPTER 213

AN ACT AMENDING CHAPTER 956, SESSION LAWS OF 1957, RELATING TO MEMBERSHIP OF THE POWER BOARD FOR THE TOWN OF MURPHY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 956, Session Laws of 1957, is deleted and substituted in lieu thereof is the following:

"Sec. 2. That Francis C. Bourne be and he is hereby appointed a member of and as chairman of said board to serve to and including May 30, 1981; Jerry Hatchett be and he is hereby appointed a member of said board to serve to and including May 30, 1979; Noah Lovingood be and he is hereby appointed a member of said board to serve to and including May 30, 1977. Vacancies in the membership of said board and the successors to the members of said board appointed by this act shall be appointed by the governing body of the Town of Murphy for terms of six years each."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

S. B. 342 **CHAPTER 214**

AN ACT RELATING TO THE TAX RECORDS OF BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. In order to clarify and make more definite the tax records for the County of Buncombe and the City of Asheville, those certain cumulative records of uncollected real estate taxes for the years 1944 through 1975 and designated as "Condensed Tax Scroll for the Years 1944 through 1975" shall, upon adoption by resolution by the Board of Tax Supervision for Buncombe County, North Carolina, be declared the official scroll books or records of unpaid real estate taxes due the County of Buncombe and the City of Asheville for the years 1944 through 1975 and unpaid personal property taxes for the years 1951 through 1975 and shall be substituted in all respects for the old scroll books for said years.

Sec. 2. All real estate taxes due the City of Asheville and the County of Buncombe or the Board of Tax Supervision for Buncombe County for the years 1944 through 1950 and all real estate and personal property taxes due for the years 1951 through 1975 which do not appear as unpaid or assigned on said Condensed Tax Scrolls, except for deferred taxes as provided for under the provisions of G.S. 105-277.4(c), as amended, shall upon the adoption of said scrolls by the Buncombe County Board of Tax Supervision, be conclusively presumed to have been paid and the tax collector for the Board of Tax Supervision for Buncombe County shall not be responsible for the omission from said tax scrolls for any unpaid real estate taxes for the years 1944 through 1950 and any real estate and personal property taxes for the years 1951 through 1975.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

S. B. 371 **CHAPTER 215**

AN ACT AUTHORIZING APPOINTMENT OF A BOARD OF EQUALIZATION AND REVIEW FOR MONTGOMERY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Montgomery County is hereby authorized and empowered to appoint for each calendar year a special Board of Equalization and Review for Montgomery County to be composed of five members. Should the Board of County Commissioners elect to appoint a special Board of Equalization and Review for Montgomery County, the appointments to said board will be made not earlier than the first Monday in January and not later than the first Monday in March of the year for which it is to be effective. The board shall elect its own chairman. To be eligible for appointment to such board, a person must have resided in Montgomery County for a period of one year immediately preceding his appointment and must have such other qualifications as are satisfactory to the Board of County Commissioners. Members of the Board of Equalization and Review shall serve

during the calendar year for which they are appointed. Any vacancies on the Board of Equalization and Review shall be filled by the Board of County Commissioners, and all appointments to the Board of Equalization and Review shall terminate upon final adjournment of the board for the year for which they are appointed.

Sec. 2. All members of the special Board of Equalization and Review shall receive for their services such compensation and reimbursement of expenses incurred in connection with their duties as may be fixed by the Board of County Commissioners. The Board of County Commissioners is authorized to provide such clerical and other assistance as it may deem advisable.

Sec. 3. Should the Board of County Commissioners of Montgomery County elect to appoint a special Board of Equalization and Review for Montgomery County, after such special Board of Equalization and Review has been appointed and its members have taken the oath of office, it shall be vested with all of the powers and duties vested by law in county boards of equalization and review for the calendar year in which the board is appointed. Upon final adjournment of the special Board of Equalization and Review for the year in which it is appointed, all powers and duties of the special Board of Equalization and Review shall then vest in the Board of County Commissioners.

Sec. 4. This act applies only to Montgomery County.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.

H. B. 282 CHAPTER 216

AN ACT TO PROVIDE FOR A SECOND PRIMARY AND FOUR-YEAR STAGGERED TERMS FOR MEMBERS OF THE ANSON COUNTY BOARD OF EDUCATION, AND THE FILLING OF VACANCIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 261, Session Laws of 1967 is hereby amended by adding a new paragraph at the end of Section 3 to read as follows:

"As the term of each member of the Anson County Board of Education expires, his successor shall be elected for a term of four years, beginning with the next primary and election for members of said board of education. Thereafter as the term of a member expires, his successor shall be elected for a term of four years. Provided, however, that in 1978, when the term of the person occupying seat number eight has expired, his successor shall be elected for a term of six years."

Sec. 2. Chapter 261, Session Laws of 1967 is amended in Section 4 by placing a period after the word "County" in line 11 and by deleting the rest of the sentence which reads "and in case there shall be more than one candidate, then the candidate receiving the highest number of votes shall be nominated and elected, and there shall be no second primary."

Sec. 3. Chapter 261, Session Laws of 1967 is further amended by deleting the penultimate sentence in Section 4 and inserting in lieu thereof the following:

"Vacancies on the Anson County Board of Education caused by death, resignation, removal from the county, removal from office or otherwise shall be

filled by the remaining members of the board of education. The person appointed to fill the vacancy shall serve for the unexpired term."

Sec. 4. This act shall not apply to any appointment to fill a vacancy which occurred prior to the effective date of this act.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 327 CHAPTER 217

AN ACT TO AMEND THE PUBLIC UTILITIES LAW TO PROVIDE AN EXEMPTION FOR TRANSPORTATION OF ANY BONA FIDE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-260(a)(7), as it appears in 1975 Replacement Volume 2B, is rewritten to read as follows:

"(7) Transportation of any bona fide employees to and from their place(s) of regular employment."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 348 CHAPTER 218

AN ACT TO PROHIBIT FORGED SIGNATURES ON PETITIONS FOR ELECTIONS OR REFERENDA.

The General Assembly of North Carolina enacts:

Section 1. Article 19 of General Statutes Chapter 163 is amended by adding a new section to read:

"§ 163-221. *Use of unauthorized signature prohibited.*—Any person who, without specific authority, willfully signs a name other than his own to a petition calling for any election or referendum, shall be guilty of a misdemeanor and upon conviction, imprisoned for not more than six months or fined in an amount not to exceed five hundred dollars ($500.00) or both."

Sec. 2. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 417 **CHAPTER 219**

AN ACT TO PROVIDE FOR UNIFORM AND JOINT RATES AMONG CARRIERS OF THE SAME CLASS.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 62 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 62-152.1 and to read as follows:

"§ 62-152.1. *Uniform rates, joint rate agreements among carriers.*—(a) Definitions. As used in this section, unless the context otherwise requires, the term:

(1) 'Carrier' means any common carrier as defined in G.S. 62-3 (6).

(2) For purposes of this section, carriers by rail are carriers of the same class, carriers by motor vehicles are carriers of the same class, carriers by pipeline are carriers of the same class, carriers by water are carriers of the same class, carriers by air are carriers of the same class, and freight forwarders are carriers of the same class.

(3) The term 'antitrust laws' means the provisions of Chapter 75 of the General Statutes (N.C.G.S. 75-1, et seq.), relating to combinations in restraint of trade.

(b) For the purpose of achieving a stable rate structure it shall be the policy of this State to fix uniform rates for the same or similar services by carriers of the same class. In order to realize and effectuate this policy and regulatory goal any carrier subject to regulation by this commission and party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, may, under such rules and regulations as the commission may prescribe, apply to the commission for approval of the agreement, and the commission shall by order approve any such agreement (if approval thereof is not prohibited by subsection (d) or (e) of this section) if it finds that, by reason of furtherance of the transportation policy and goal declared in this section and in G.S. 62-2 or G.S. 62-259 as may be pertinent, the relief provided in subsection (h) shall apply with respect to the making and carrying out of such agreement; otherwise, the application shall be denied. The approval of the commission shall be granted only upon such terms and conditions as the commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this subsection.

(c) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the commission under this section shall maintain such accounts, records, files and memoranda and shall submit to the commission such information and reports as may be prescribed by the commission, and all the accounts, records, files and memoranda shall be subject to inspection by the commission or its duly authorized representatives.

(d) The commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that the agreement is of the character described in subsection (b) of this section and is limited to matters relating to transportation under joint rates or over through routes.

(e) The commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action after any determination arrived at through such procedure.

(f) The commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which the approval was granted is not or are not in conformity with the standards set forth in subsection (b) of this section, or whether any such terms and conditions are not necessary for the purposes of conformity with such standards, and, after such investigation, the commission shall by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with such standards, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standards or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the commission determines to be reasonably necessary to avoid undue hardships.

(g) No order shall be entered under this section except after interested parties have been afforded reasonable notice and opportunity for hearing.

(h) Parties to any agreement approved by the commission under this section and other parties are, if the approval of such agreement is not prohibited by subsection (d) or (e) of this section, hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with the terms and conditions prescribed by the commission.

(i) Any action of the commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of subsection (h) of this section."

Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of this act and its application to other persons or circumstances shall not be affected thereby.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 434 **CHAPTER 220**

AN ACT TO ALLOW THE USE OF COMPUTER TAPES IN THE PREPARATION AND CUSTODY OF THE JURY LIST.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 9 is amended by inserting in Article I thereof a new section, to read as follows:

"§ 9-8. *Alternate procedure in certain counties.*—In counties having electronic data processing equipment, the functions of preparing and maintaining custody of the list of prospective jurors, the procedure for drawing and summoning panels of jurors, and the procedure for maintaining records of names of jurors who have served, been excused, been delayed in service, or been disqualified, may be performed by this equipment, except that decisions as to mental or physical competency of prospective jurors shall continue to be made by jury commissioners. The procedure for performing these functions by electronic data processing equipment shall be in writing, adopted by the jury commission, and kept available for public inspection in the office of the clerk of court. The procedure must effectively preserve the authorized grounds for disqualification, the right of public access to the list of prospective jurors, and the time sequence for drawing and summoning a jury panel."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 484 **CHAPTER 221**

AN ACT TO MAKE THE PROVISIONS OF G.S. 47-30(k), G.S. 47-32 AND G.S. 47-32.2 APPLICABLE TO TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k) is amended by deleting the word "Tyrrell".

Sec. 2. G.S. 47-32 is amended by deleting the word "Tyrrell".

Sec. 3. G.S. 47-32.2 is amended by deleting the word "Tyrrell".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 494 **CHAPTER 222**

AN ACT AMENDING CHAPTER 224 OF THE PRIVATE LAWS OF 1927 WITH RESPECT TO THE CITY OF WINSTON-SALEM AND COUNTY OF FORSYTH.

The General Assembly of North Carolina enacts:

Section 1. Chapter 224 of the Private Laws of 1927, as amended, is further amended by designating present Section 15 as subsection 15(a), and by adding a subsection 15(b) to read as follows:

"(b) Deferred payments of feasibility projects treated as assessments. The city/county utility commission, established by the City of Winston-Salem and County of Forsyth, shall have the same authority as is provided herein for the Board of Aldermen of the City of Winston-Salem, and the same authority as is provided by general law for the County of Forsyth, insofar as water and sewer

services within the City of Winston-Salem or County of Forsyth are concerned. If the city/county utility commission desires to provide for deferred payments for water service charges (exclusive of water consumption charges) in excess of two hundred dollars ($200.00), they may so declare by resolution. In such cases, the deferred payment shall be treated the same as if it were a part of a confirmed assessment roll (no preliminary assessment roll or public hearing being required), and all provisions herein or in applicable general law relative to confirmed assessments, including without limitations, interest, enforcement, term and lien on property served, shall be applicable."

Sec. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 3. This act shall apply to the City of Winston-Salem and Forsyth County only.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 577 CHAPTER 223

AN ACT TO PROVIDE THAT IN GREENE COUNTY PISTOL PERMITS SHALL BE ISSUED BY THE SHERIFF, OR HIS DESIGNATED DEPUTY AND THAT A FEE OF FIVE DOLLARS SHALL BE CHARGED FOR EACH PERMIT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law in Greene County, so-called pistol permits required by G.S. 14-402 and G.S. 14-409.1 shall be issued by the sheriff or any deputy sheriff designated by the sheriff.

Sec. 2. Notwithstanding any other provision of law, permits issued under this act shall be issued only to "responsible and competent" persons.

Sec. 3. A fee of five dollars ($5.00) shall be charged for each permit and shall be deposited to the general fund of the county.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 640 CHAPTER 224

AN ACT TO AMEND CHAPTER 73 OF THE SESSION LAWS OF 1971, BEING THE CHARTER OF THE TOWN OF MINT HILL IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 73 of the 1971 Session Laws, being the Charter of the Town of Mint Hill, is hereby amended by adding the following:

"ARTICLE X.

"Eminent Domain.

"Sec. 10.1: Powers and Procedures. The Town of Mint Hill shall have the power of eminent domain and may acquire, either by purchase, gift or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water, or improvements, either within or without the town limits, for any lawful public use or purpose.

In the exercise of the power of eminent domain, the town is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the Town of Mint Hill, and the town shall follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water and sewer facilities, and for all other purposes authorized by the provisions of G.S. 160A-241, the Town of Mint Hill is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further, that whenever therein the words 'Director' or 'Director of Highways' or 'Director of the Highway Commission' appear, they shall be deemed to include the town administrator, provided further that nothing herein shall be construed to enlarge the power of the Town of Mint Hill to condemn property already devoted to public use."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 650 CHAPTER 225

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HAZELWOOD AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Hazelwood is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF HAZELWOOD.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Sec. 1.1. Incorporation. The Town of Hazelwood, North Carolina in the County of Haywood, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Hazelwood', hereinafter at times referred to as the 'town'.

"Sec. 1.2. Powers. The Town of Hazelwood shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Hazelwood specifically, or upon municipal corporations generally, by this charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate limits. The corporate limits of the Town of Hazelwood shall be those existing at the time of ratification of this charter, as the same are set forth on the official map of the town, and as the same may be altered from time to time in accordance with law. An official map of the town, showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the town shall be made.

"Sections 1.4 through 1.10 (Reserved.)

"ARTICLE II.
"MAYOR AND BOARD OF ALDERMEN.

"Sec. 2.1. Governing body. The mayor and board of aldermen, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and board may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

"Sec. 2.2. Board of aldermen; composition; terms of office. The board of aldermen shall be composed of three members, each of whom shall be elected for terms of four years in the manner provided by Article III of this charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. Selection of the mayor; term of office; duties. The mayor shall be elected directly by the voters of the town in the manner provided by Article III of this charter, for a term of four years; provided, the mayor shall serve until his successor is elected and qualified. The mayor shall be the official head of the town government and shall preside at all meetings of the board of aldermen. He shall have the right to vote only if there is an equal number of votes in the affirmative and the negative on any matter before the board. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this charter, and by the ordinances of the town.

"Sec. 2.4. Mayor pro tempore. In accordance with applicable State laws, the board of aldermen shall appoint one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

"Sec. 2.5. Meetings of the board. In accordance with the General Statutes, the board of aldermen shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. Ordinances and resolutions. The adoption, amendment, repeal, pleading, or proving of town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clause of all town ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Hazelwood.'

"Sec. 2.7. Voting requirements; quorum. Official action of the board of aldermen shall, unless otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the board, is present. Vacant seats are to be subtracted from the normal board membership to determine the actual membership.

"Sec. 2.8. Qualifications for office; vacancies; compensation. The compensation of board members, the filling of vacancies for any elective office, and the qualifications of board members shall be in accordance with applicable provisions of the General Statutes.

"Sections 2.9 through 2.15. (Reserved.)

"ARTICLE III.
"ELECTIONS.

"Sec. 3.1. Regular municipal elections; conduct and method of election. Regular municipal elections shall be held in the town every four years in odd-

numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and members of the board of aldermen shall be elected according to the nonpartisan plurality method of elections as set forth in G.S. 163-279(a)(1) and the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

"Sec. 3.2. Election of the mayor and board of aldermen. At the regular municipal elections in 1979 and quadrennially thereafter, there shall be elected a mayor and three aldermen to fill the seats of those officers whose terms are then expiring.

"Sections 3.3 through 3.10. (Reserved.)

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. Form of government. The town shall operate under the mayor-council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Town Attorney. The board of aldermen shall appoint a town attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the town attorney to prosecute and defend suits against the town; to advise the mayor, board of aldermen and other town officials with respect to the affairs of the town; to draft all legal documents relating to the affairs of the town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the town may be concerned; to attend meetings of the board of aldermen; and to perform other duties required by law or as the board of aldermen may direct.

"Sec. 4.3. Town clerk. The board of aldermen shall appoint a town clerk to keep a journal of the proceedings of the board, to maintain in a safe place all records and documents pertaining to the affairs of the town, and to perform other duties required by law or as the board of aldermen may direct.

"Sec. 4.4. Town finance officer. The board of aldermen shall appoint a town finance officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.5. Town budget officer. The board of aldermen shall appoint a town budget officer to perform the duties of the budget officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. Town tax collector. The board of aldermen shall appoint a town tax collector to collect all taxes, licenses, fees and other moneys belonging to the town, subject to the General Statutes, the provisions of this charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities.

"Sec. 4.7. Consolidation of functions. The board of aldermen may consolidate any two or more positions of town clerk, town tax collector, town budget officer and town finance officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other administrative officers and employees. Consistent with applicable State laws, the board of aldermen may establish positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"Sections 4.9. through 4.15. (Reserved.)

"ARTICLE V.

"SPECIAL PROVISIONS.

"Sec. 5.1. Street improvements; assessment of costs. In addition to any authority which is now or may hereafter be granted by general law to the town for making street improvements, the board of aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of Sections 5.1 through 5.6 herein.

"Sec. 5.2. When petition unnecessary. The board of aldermen may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the board as a fact:

(a) that the street improvement project does not exceed 1,200 linear feet, and

(b) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(c) that it is in the public interest to connect two streets, or portions of a street already improved, or

(d) that it is in the public interest to widen a street, or part thereof which is already improved; provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street improvement standards established by the town's street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 5.3. Street improvement defined. For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 5.4. Sidewalks; assessment of costs. In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the board of aldermen is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the board of aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 5.5. Assessment procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the board of aldermen shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 5.6. Effect of assessments. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the

assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sections 5.7 through 5.15. (Reserved.)"

Sec. 2. The purpose of this act is to revise the Charter of the Town of Hazelwood and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) any acts concerning the property, affairs, or government of public schools in the Town of Hazelwood;

(b) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 91, Private Laws 1905
Chapter 169, Private Laws 1913
Chapter 317, Private Laws 1913, Sections 1 and 3-10
Chapter 106, Private Laws 1915
Chapter 85, Private Laws Ex. 1921
Chapter 123, Private Laws 1921
Chapter 138, Private Laws Ex. 1921
Chapter 143, Private Laws 1921
Chapter 116, Private Laws 1929
Chapter 97, Private Laws 1933
Chapter 159, Private Laws 1933
Chapter 874, S.L. 1945
Chapter 603, S.L. 1951
Chapter 1005, S.L. 1955

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Hazelwood and all existing rules or regulations of departments or agencies of the

Town of Hazelwood not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Hazelwood or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 693 CHAPTER 226

AN ACT TO AMEND CHAPTER 649, SESSION LAWS OF 1975 TO ENLARGE THE BOUNDARIES OF PINEHURST.

The General Assembly of North Carolina enacts:

Section 1. Chapter 649, Session Laws of 1975, is hereby amended by adding at the end of Section 1 thereof the following:

"The following described tract shall be included within the boundaries of Pinehurst for the purpose set forth in Section 2:

A certain tract or parcel of land in Mineral Springs Township, Moore County, North Carolina fronting on the south side of Linden Road about one mile west of the Village of Pinehurst, North Carolina, described as follows:

BEGINNING at a corner in the center of the Norfolk and Southern Railroad where the center line of said railroad intersects the south right-of-way line of Linden Road; running thence from the beginning as the center of the railroad South 89 degrees 41 minutes East 1593.37 feet to a corner in the center of the railroad in the west line of Edward King; thence as the west line of King South 5 degrees 49 minutes West 1438.20 feet to a concrete monument, a corner of King; thence as a south line of King South 89 degrees 47 minutes East 84.17 feet to a concrete monument, another corner of King; thence as a southeast line of King North 37 degrees 59 minutes East 491.83 feet to a concrete monument, a common corner of Carolina Clarendon Corporation and Pinehurst, Inc.; thence as a line of Pinehurst, Inc., South 22 degrees 45 minutes East 373.84 feet to a concrete monument, a corner of Pinehurst, Inc.; thence continuing with a line of Pinehurst, Inc., South 21 degrees 21 minutes West 1934.33 feet to a concrete monument, a corner of Pinehurst, Inc.; thence continuing with a line of Pinehurst, Inc., South 5 degrees 43 minutes West 474.98 feet to a corner of Pinehurst, Inc., thence continuing with a line of Pinehurst, Inc., North 58

degrees 47 minutes West 1800.56 feet to a concrete monument, a corner of Pinehurst, Inc.; thence continuing with the line of Pinehurst, Inc., North 28 degrees 24 minutes West 656.57 feet to a concrete monument, a common corner of Pinehurst Inc., Mrs. Lexie Smith, and Carolina Clarendon Corporation; thence as a northeast line of Smith North 26 degrees 26 minutes West 705.90 feet to an iron stake, a corner of Smith; thence continuing with Smith North 29 degrees 06 minutes West 1047.26 feet to a concrete monument in the south right-of-way line of Linden Road; thence as the South line of Linden Road the following calls, North 60 degrees 26 minutes East 133.06 feet to a concrete monument; thence North 67 degrees 40 minutes East 1053.17 feet to a concrete monument at the intersection of the south line of Linden Road and the east line of Quail Run; thence continuing as the south line of Linden Road North 67 degrees 49 minutes East 233.75 feet to a concrete monument; thence continuing as a straight line North 67 degrees 49 minutes East 155.30 feet to the beginning, containing 174.44 acres more or less. And being that same and identical parcel or tract of land conveyed by Francis W. Howe and wife, Mary James Howe to Carolina Clarendon Corporation by warranty deed dated August 11, 1959, recorded in Deed Book 232 at Page 165 of the Moore County Registry, Carthage, North Carolina. The above description is from an actual survey made by C. H. Blue, Registered Surveyor, as shown on a plat dated November 17, 1976."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

S. B. 198 CHAPTER 227

AN ACT TO DELETE THE REQUIREMENT THAT A FORMER P.O.W. HAVE ENTERED SERVICE FROM NORTH CAROLINA IN ORDER TO QUALIFY FOR A P.O.W. LICENSE PLATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81.4(a1) is hereby amended by deleting the comma and putting a period after the word "service" in the ninth line thereof and is further amended by deleting the words "who was a resident of North Carolina at the time he entered that period of service during which he became a prisoner of war."

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

S. B. 294 CHAPTER 228

AN ACT TO AMEND CHAPTER 127A, ARTICLE 15 RELATING TO THE NORTH CAROLINA NATIONAL GUARD TUITION ASSISTANCE ACT OF 1975.

The General Assembly of North Carolina enacts:

Section 1. G.S. 127A-192 as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended by adding a new paragraph following paragraph "(d)" to read as follows:

"(e) 'Academic Year'. Any period of 365 days beginning with the first day of enrollment for a course of instruction."

Sec. 2. G.S. 127A-193 as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended in lines 6 and 7 by deleting after the words "academic years" the words "or until the course of study being pursued has been completed, whichever comes first".

Sec. 3. G.S. 127A-194(a) as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended in line 2 by deleting after the word "guard" and before the words "who are enrolled" the words "who have completed a minimum of one year of satisfactory service and".

Sec. 4. G.S. 127A-194(b) as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended by adding a new subdivision following the last subdivision to read as follows: "(5) Students seeking to achieve a graduate degree".

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

S. B. 309 CHAPTER 229

AN ACT TO AMEND CHAPTER 127A, ARTICLE 3 OF THE GENERAL STATUTES RELATING TO NATIONAL GUARD CITATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 127A, as it appears in the 1975 Cumulative Supplement of Volume 3B of the General Statutes of North Carolina, is hereby amended by adding a new Section 127A-45.1 to read as follows:

"§ 127A-45.1. *North Carolina National Guard Governor's Unit Citation.*— There is hereby created the North Carolina National Guard Governor's Unit Citation which shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by the Governor or his designated representative. The Governor or his designated representative is authorized to present such unit citation, upon recommendation of the Adjutant General, subject to the approval of the secretary, to any unit of North Carolina National Guard distinguishing itself by extraordinary heroism or meritorious service while in a State active duty status. The unit must display such gallantry, determination, and esprit de corps in accomplishing its mission under conditions which set it apart and above other units."

Sec. 2. Chapter 127A is further amended by adding a new Section 127A-45.2 to read as follows:

"§ 127A-45.2. *North Carolina National Guard Meritorious Unit Citation.*— There is hereby created the North Carolina National Guard Meritorious Unit

Citation which shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by the Governor or his designated representative. The Adjutant General is authorized to present such citation to any unit of the North Carolina National Guard distinguishing itself through heroism or meritorious service to the State of North Carolina. The required heroism or meritorious service, while of a lesser degree than that required for the award of the North Carolina National Guard Governor's Unit Citation, must nevertheless have been accomplished with distinction."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

S. B. 322

CHAPTER 230

AN ACT TO AMEND THE SUBSECTIONS OF CHAPTER 127A OF THE GENERAL STATUTES RELATING TO THE AWARD OF STATE MILITARY MEDALS AND DECORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 127A-42, as the same now appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 127A-42. *Distinguished Service Medal by Governor of North Carolina.*— There is hereby created the North Carolina Distinguished Service Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor. Upon the recommendation of the Secretary of Crime Control and Public Safety and a board consisting of the Adjutant General and all other general officers and officers assigned to authorized general-officer grade vacancies, North Carolina National Guard, the Governor is authorized to present such medal to any member or former member of the armed forces discharged under honorable conditions, who has distinguished himself by exceptionally meritorious conduct in the performance of outstanding service to the North Carolina National Guard. The Governor, on his own authority, may award such medal to the Secretary of Crime Control and Public Safety, the Adjutant General, or any other active or inactive general officer of the armed forces, who has distinguished himself by especially meritorious conduct in the performance of his duties."

Sec. 2. G.S. 127A-43, as the same now appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 127A-43. *North Carolina National Guard Meritorious Service Medal.*— There is hereby created the North Carolina National Guard Meritorious Service Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Governor or his designated representative is authorized to award this medal upon the recommendation of the Secretary of Crime Control and Public Safety in consultation with the Adjutant General and a board of officers appointed by the Adjutant General. Any member or former member of the armed forces discharged under honorable conditions, who has

distinguished himself by heroism, meritorious achievement, or meritorious service to the North Carolina National Guard, is eligible for this award. The Governor, on his own authority, may award such medal to the Secretary of Crime Control and Public Safety, the Adjutant General or any other active or inactive general officer of the armed forces who has distinguished himself by heroism, meritorious achievement, or meritorious service to the North Carolina National Guard. The required heroism, achievement, or service, while of a lesser degree than that required for awarding of the North Carolina Distinguished Service Medal, must nevertheless be accomplished with distinction."

Sec. 3. G.S. 127A-44 as the same now appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 127A-44. *North Carolina National Guard Commendation Medal.*—There is hereby created the North Carolina National Guard Commendation Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina or his designated representative, who shall not be below the grade of general officer, is authorized to award this medal. Any member or former member of the armed forces discharged under honorable conditions, who distinguishes himself by his example or the performance of a specific act in behalf of the North Carolina National Guard, is eligible for this award."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. B. 64 CHAPTER 231

AN ACT TO AMEND ARTICLE 4C OF CHAPTER 106 OF THE GENERAL STATUTES, THE STRUCTURAL PEST CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.22 is rewritten to read as follows:

"This Article shall be known by the title of 'Structural Pest Control Act of North Carolina of 1955'. It is declared to be the policy of this State that the regulation of persons, corporations and firms engaged in the business of structural pest control in this State, as defined in G.S. 106-65.25, is in the public interest in order to ensure a high quality of workmanship and in order to prevent deception, fraud and unfair trade practices in the conduct of said business. The General Assembly finds that quality of structural pest control work is not easily determined by the general public due to the inaccessibility of the areas treated and the complexity of the methods of treatment."

Sec. 2. G.S. 106-65.23 as the same appears in the 1976 Interim Supplement is amended by rewriting the first paragraph thereof to read as follows:

"There is hereby re-created, within the North Carolina Department of Agriculture, a division thereof, to be known as the Structural Pest Control Division of said department.

The Commissioner of Agriculture is hereby authorized to appoint a director of said division whose duties and authority shall be determined by the commissioner. Said director shall act as secretary to the Structural Pest Control Committee herein created.

Sec. 3. G.S. 106-65.24 is amended by inserting between subdivision (8) and subdivision (9) the following:

"(8a) 'Director' means the director of the Structural Pest Control Divison of the Department of Agriculture."

Sec. 4. G.S. 106-65.24 is further amended by inserting between subdivision (9) and subdivision (10) the following:

"(9a) 'Enforcement agency' means the Structural Pest Control Division of the Department of Agriculture."

Sec. 5. G.S. 106-65.24 is further amended by inserting between subdivision (14) and subdivision (15) the following:

"(14a) The term 'labeling' means all labels and other written, printed, or graphic matter.

a. Upon the pesticide (or device) or any of its containers or wrappers;

b. accompanying the pesticide (or device) at any time;

c. to which reference is made on the label or in literature accompanying the pesticide (or device) except when accurate nonmisleading reference is made to current official publications of the United States Department of Agriculture or Interior, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this State or other states authorized by the law to conduct research in the field of pesticides."

Sec. 6. G.S. 106-65.27 as the same appears in the 1976 Interim Supplement is amended by rewriting paragraph (c) to read as follows:

"A license shall not be transferrable. When there is a transfer of ownership, management or operation of a business of a licensee hereunder, there shall be not more than a total of 90 days during any 12-month period in which any individual, firm, partnership, corporation or other entity, shall not have a qualified licensee to operate said business; and further provided, during each of the periods specified under this section, the use of any restricted use pesticide by any person representing said business agent or agency shall be by or under the direct supervision of a person possessing a valid certified applicator's identification card. A new licensee shall be responsible for correcting all discrepancies committed by the preceding licensee of said business or anyone working under his license during the 12-month period next preceding his becoming the designated licensee and he shall further be responsible for correcting discrepancies for all existing contracts. A discrepancy shall mean failure of the licensee to follow any rule and regulation concerning treating procedures adopted by the committee under provisions of this Article."

Sec. 7. G.S. 106-65.28 as the same appears in the 1976 Interim Supplement is amended by designating the last three paragraphs thereof as subsections (c), (d) and (e).

Sec. 8. G.S. 106-65.28 as the same appears in the 1976 Interim Supplement is amended by inserting after the word "card" in line 1 thereof, the words "or operator's identification card".

G.S. 106-65.28 is further amended by inserting after the word "be" in line 3 thereof, the word "denied".

G.S. 106-65.28 is further amended by adding the words "or operator's identification card" at the end of subdivision (a)(4).

G.S. 106-65.28 is further amended by inserting after the word "card" in line 5 of subsection (a)(6) the words "or operator's identification card".

G.S. 106-65.28 is further amended by inserting the words "or operator's identification card" after the word "card" in line 2 of subsection (b).

G.S. 106-65.28 is further amended by inserting the words "or operator's identification card" after the word "card" in line 1 of subsection (c).

G.S. 106-65.28(d) as the same appears in the 1976 Interim Supplement is rewritten in its entirety as follows:

"(d) Any licensee whose license or certified applicator or operator whose identification card is revoked under the provisions of this Article shall not be eligible to apply for a new license or certified applicator's identification card or operator's identification card hereunder until two years have elapsed from the date of the order revoking said license or certified applicator's identification card or operator's identification card or if an appeal is taken from said order of revocation, two years from the date of the order or final judgement sustaining said revocation."

G.S. 106-65.28(e) as the same appears in the 1976 Interim Supplement is rewritten in its entirety as follows:

"(e) The lapsing of a State structural pest control license or certified applicator's identification card or operator's identification card by operation of law or the voluntary surrender of said license or said card shall not deprive the committee of jurisdiction to proceed with any investigation or disciplinary proceedings against such licensee or card holder or to render a decision suspending or revoking such license or card."

Sec. 9. G.S. 106-65.29 is rewritten in its entirety to read as follows:

"In order to ensure that persons licensed and certified under this Article are capable of performing a high quality of workmanship, the committee is hereby authorized and empowered to make rules and regulations with respect to:

(1) The amount and kind of training required of an applicant for a license and certified applicator's card to engage in any one or more of the three phases of structural pest control.

(2) The type, frequency and passing score of any examination given an applicant for a license and certified applicator's card under this Article.

(3) The amount, kind and frequency of continuing education required of a licensee and certified applicator.

(4) The methods and materials to be used in performing any work authorized by the issuance of a license and certified applicator's card under this Article.

(5) The business records to be made and maintained by licensees and certified applicators under this Article necessary for the committee to determine whether the licensee and certified applicator is performing a high quality of workmanship.

(6) The credentials and identification required of licensees and certified applicators, their employees and equipment, including service vehicles, when engaged in any work defined under this Article.

(7) Safety methods and procedures for structural pest control work.

Such rules and regulations shall not become effective until a public hearing shall have been held and notification of such hearing shall have been given to all licensees and certified applicators."

G.S. 106-65.28(a) is further amended by adding at the end thereof the following:

"(11) Falsification of records required to be kept by this Article or the rules and regulations of the committee."

Sec. 10. G.S. 106-65.30 as the same appears in the 1976 Interim Supplement is amended by adding thereto the following paragraph:

"The commissioner shall have authority to appoint personnel of the Structural Pest Control Division as special inspectors and said special inspectors are hereby vested with the authority to arrest with a warrant, or to arrest without a warrant when a violation of this Article is being committed in their presence or they have reasonable grounds to believe that a violation of this Article is being committed in their presence. Said special inspectors shall take offenders before the several courts of this State for prosecution or other proceedings. The provisions of this section do not apply to any person holding a valid structural pest control license, or a certified applicator's identification card, or an operator's identification card as issued under the provisions of this Article. Special inspectors shall not be entitled to the benefits of the Law Enforcement Officers' Benefit and Retirement Fund or the benefits of the Law Enforcement Officers' and Others Death Benefit Act as provided for in Articles 12 and 12A of Chapter 143 of the General Statutes, respectively."

Sec. 11. G.S. 106-65.33 is rewritten in its entirety to read as follows:

"Any person who shall be adjudged to have violated any provision of this Article or who falsifies any records required to be kept by this Article or by the rules and regulations pursuant to this Article or who uses a registered pesticide in a manner inconsistent with its labeling shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars ($100.00) or not more than one thousand dollars ($1,000) or shall be imprisoned for not less than 60 days nor more than six months, or both. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the committee, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

Sec. 12. Article 4C of Chapter 106 of the General Statutes is further amended by adding a new section thereto as follows:

"All fees and charges received by the division under this Article shall be deposited in the Department of Agriculture General Fund Budget for the purpose of administration and enforcement of this Article, with proper approved accounting procedures accounting for all expenditures and receipts."

Sec. 13. The superior court is vested with jurisdiction specifically to enforce and to prevent and restrain violations of this Article and shall have jurisdiction in all other cases arising under this Article.

Sec. 14. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

H. B. 355 CHAPTER 232

AN ACT TO AMEND CHAPTER 160A OF THE GENERAL STATUTES TO AUTHORIZE MUNICIPALITIES OWNING OR OPERATING ELECTRIC DISTRIBUTION SYSTEMS, MUNICIPALITIES ENGAGING IN JOINT PROJECT AND JOINT AGENCIES CREATED PURSUANT TO CHAPTER 159B TO ENGAGE IN LOAD MANAGEMENT PRACTICES AND TO ADOPT PEAK LOAD PRICING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A, Article 16, Part 1 is hereby amended by adding a new section 160A-323 to read as follows:

"§ 160A-323. *Load management and peak load pricing of electric power.*—In addition and supplemental to the powers conferred upon municipalities by the laws of the State and for the purposes of conserving electricity and increasing the economy of operation of municipal electric systems, any municipality owning or operating an electric distribution system, any municipality engaging in a joint project pursuant to Chapter 159B of the General Statutes and any joint agency created pursuant to Chapter 159B of the General Statutes, shall have and may exercise the power and authority:

1. to investigate, study, develop and place into effect procedures and to investigate, study, develop, purchase, lease, own, operate, maintain, and put into service devices, which will temporarily curtail or cut off certain types of appliances or equipment for short periods of time whenever an unusual peak demand threatens to overload the electric system or economies would result; and

2. to fix rates and bill customers by a system of non-discriminatory peak pricing, with incentive rates for off-peak use of electricity charging more for peak periods than for off-peak periods to reflect the higher cost of providing electric service during periods of peak demand on the electric system."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

H. B. 443 CHAPTER 233

AN ACT TO ENACT THE NORTH CAROLINA SOIL ADDITIVES ACT OF 1977.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the North Carolina Soil Additives Act of 1977.

Sec. 2. This act shall be administered by the Commissioner of Agriculture of the State of North Carolina.

Sec. 3. Words used in this act shall be defined as follows:

A. "Adulterated" means any soil additive:

(1) which contains any deleterious substance in sufficient quantity to be injurious to desirable terrestrial or aquatic organisms when applied in accordance with the directions for use shown on the label; or

(2) whose composition differs from that offered in support of registration or shown on the label; or

(3) which contains noxious weed seed.

B. "Bulk" means in nonpackaged form.

C. "Commissioner" means the Commissioner of Agriculture of the State of North Carolina or his designated agent.

D. "Distribute" means to import, consign, offer for sale, sell, barter, exchange, or to otherwise supply soil additives to any person in this State.

E. "Distributor" means any person who imports, consigns, sells, offers for sale, barters, exchanges, or otherwise supplies soil additives in this State.

F. "Label" means the display of written, printed, or graphic matter upon the immediate container of, or accompanying soil additives.

G. "Labeling" means all written, printed, or graphic matter accompanying any soil additive and all advertisements, brochures, posters, television, radio or oral claims used in promoting its sale.

H. "Percent" or "percentage" means the parts per hundred by weight.

I. "Person" means individuals, partnerships, associations, corporations or other legal entity.

J. "Product name" means the designation under which a soil additive is offered for distribution.

K. "Registrant" means any person who registers a soil additive under the provisions of this act.

L. "Sale" means any transfer of title or possession, or both, exchange or barter of tangible personal property, conditioned or otherwise for a consideration paid or to be paid, and this shall include any of said transactions whereby title or ownership is to pass and shall further mean and include any bailment, loan, lease, rental, or license to use or consume tangible personal property for a consideration paid in which possession of said property passes to the bailor, borrower, lessee, or licensee.

M. "Sell" means the alienation, exchange, transfer or contract for such transfer of property for a fixed price in money or its equivalent.

N. "Soil additive" means any substance intended for changing the characteristics of soil or other growth medium for purposes of:

(1) increasing the biological population, or

(2) increasing penetrability of water or air, or

(3) increasing water holding capacity, or

(4) increasing root development, or

(5) alleviating or decreasing soil compaction, or

(6) otherwise altering the soil or other medium in such manner that the physical and biological properties are materially enhanced.

(7) The term "soil additive" does not include any substance for which nutritional claims are made, such as, but not limited to, commercial fertilizers, liming materials, or unmanipulated vegetable or animal manures. It also specifically does not include rhizobial inoculants, pine bark, peat moss, other unfortified mulches, or pesticides.

Sec. 4. Every soil additive distributed in North Carolina shall be registered with the commissioner by the person whose name appears on the label on forms furnished by the commissioner. The applicant shall furnish such information as the commissioner may require. In determining the acceptability of any product for registration, the commissioner may require proof of claims made for the soil additive. If no specific claims are made, the commissioner may require proof of usefulness and value of the soil additive. As evidence of proof, the commissioner may rely on experimental data furnished by the applicant

and may require that such data be developed by a recognized research or experimental institution. The commissioner may further require that such data be developed from tests conducted under conditions identical to or closely related to those present in North Carolina. The commissioner may reject any data not developed under such conditions and may rely on the advice of the Director of the North Carolina Agricultural Experiment Station in evaluating data for registration.

The registration fee shall be fifty dollars ($50.00) per year for each product. Registration shall expire on December 31, annually, unless an application for renewal has been received prior to the expiration date.

The application for registration shall include the following:

A. the name and address of the registrant;
B. product name;
C. guaranteed analysis;
(1) active ingredients (name of each ingredient and percent)
(2) inert ingredients (name of each ingredient and percent)
D. directions for use;
E. purpose of product.

The application shall be accompanied by the label for the product and all advertisements including brochures, posters, or other information promoting the product. The registrant is responsible for all guaranteed analysis and claims appearing on the label.

Sec. 5. Every soil additive container shall be labeled on the face or display side in readable and conspicuous form showing:

A. the product name;
B. the guaranteed analysis;
C. a statement of claim or purpose;
D. adequate directions for use;
E. net weight or volume;
F. name and address of registrant.

Sec. 6. A soil additive shall be considered misbranded if:

A. its label or labeling is false or misleading in any particular;
B. it is distributed under the name of another soil additive;
C. it is represented as a soil additive or is represented to contain a soil additive unless such soil additive conforms to the soil additive definition in this act.

Sec. 7. Each registrant shall keep accurate records of his sales, and shall file a semiannual report covering the periods January 1 through June 30, and July 1 through December 31. Such reports shall be due within 30 days from the close of each period. If the report is not filed within the 30-day period or is false in any respect, the commissioner may revoke the registration. For the purpose of auditing reports, each registrant shall make his records available for audit from time to time as the commissioner may deem necessary.

Sec. 8. It shall be a violation of this act for any person:

A. to distribute an unregistered soil additive;
B. to distribute an unlabeled soil additive;
C. to distribute a misbranded soil additive;
D. to distribute an "adulterated" soil additive;
E. to fail to comply with a "stop sale, use or removal" order; or
F. to fail to submit semiannual reports.

Sec. 9. The commissioner is authorized to enter upon any public or private property with permission or with a proper court order during normal business hours for the purpose of inspecting or sampling any soil additive to determine if such additive is being distributed in compliance with the provisions of this act. In the examination of such samples, the commissioner may rely on such tests as he may establish as necessary for the enforcement of this act.

Sec. 10. The commissioner may issue and enforce a written or printed stop sale, use, or removal order to the owner or custodian of any lot of soil additive, and hold at a designated place, any such lot of soil additive which the commissioner determines does not comply with the provisions of this act. When such soil additive has been made to comply with the provisions of this act, it shall then be released in writing by the commissioner.

Sec. 11. The commissioner may bring an action to enjoin the violation or threatened violation of any provision of this act or regulations adopted hereunder, in the Superior Court of Wake County, or in the superior court of the county in which such violation occurs or is about to occur.

Sec. 12. The commissioner shall refuse to register any soil additive which fails to comply with the provisions of this act, and may revoke, after opportunity for a hearing, any registration, upon sufficient evidence that the registrant or any of his designated agents has used misleading, fraudulent, or deceptive practices in the distribution of any soil additive.

Sec. 13. The Board of Agriculture is authorized to promulgate and adopt, pursuant to Chapter 150A of the General Statutes of North Carolina, such rules and regulations as may be necessary to enforce the provisions of this act. Such regulations may relate to, but shall not be limited to:

A. methods of inspection and sampling;
B. examination and analysis of samples;
C. designation of ingredients;
D. identity of product;
E. monetary penalties for samples not meeting guarantees;
F. acceptable ingredients for registration;
G. labeling format.

Sec. 14. Any person violating the provisions of this act or the regulations adopted thereunder, shall be guilty of a misdemeanor and shall be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) or be imprisoned for not more than 60 days, or both, in the discretion of the court. In addition, if any person continues to violate or further violates any provision of this act after written notice from the commissioner each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

Sec. 15. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

H. B. 455 **CHAPTER 234**

AN ACT TO REPEAL CHAPTER 1003 OF THE 1961 SESSION LAWS PROHIBITING ANY PERSON FROM HUNTING DEER WITH A RIFLE IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1003 of the 1961 Session Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

H. B. 539 **CHAPTER 235**

AN ACT TO PROVIDE THAT IN MOORE COUNTY PISTOL PERMITS SHALL BE ISSUED BY THE SHERIFF, OR HIS DESIGNATED DEPUTY AND THAT A FEE OF TEN DOLLARS SHALL BE CHARGED FOR EACH PERMIT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, in Moore County, so-called pistol permits required by G.S. 14-402 and G.S. 14-409.1, shall be issued by the sheriff or any deputy sheriff designated by the sheriff.

Sec. 2. Notwithstanding any other provision of law, permits issued under this act shall be issued only to "responsible and competent" persons.

Sec. 3. A fee of five dollars ($5.00) shall be charged for each permit and shall be deposited to the general fund of the county.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

S. B. 202 **CHAPTER 236**

AN ACT TO AMEND G.S. 55A-15(a)(8) OF THE GENERAL STATUTES AND TO ADD NEW G.S. 55A-17.1, G.S. 55A-17.2, AND G.S. 55A-17.3 CONCERNING INDEMNIFICATION OF OFFICERS AND DIRECTORS OF NONPROFIT CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-15(a)(8) as the same appears in Volume 2B of the General Statutes is hereby amended to read as follows:

"(8) Subject to any restrictions in the Charter, to provide by bylaw, agreement, vote of board of directors or members, or otherwise, for indemnification of any director or officer or former director or officer of the corporation or any person who may have served at its request as a director or officer of another corporation, whether for profit or not for profit, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty."

Sec. 2. Chapter 55A of the General Statutes is hereby amended by adding new G.S. 55A-17.1, G.S. 55A-17.2 and G.S. 55A-17.3 to read as follows:

"§ 55A-17.1. *Indemnification of directors, officers, employees or agents; general provisions.*—(a) The indemnification of a director or officer of a corporation permitted by this section or by G.S. 55A-17.2 and G.S. 55A-17.3 shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise with respect to any liability or litigation expenses arising out of his activities as director or officer.

(b) As used in this section and in G.S. 55A-17.2 and G.S. 55A-17.3, the term 'person' includes the legal representative of such person.

(c) Anything in this section or in G.S. 55A-17.2 or G.S. 55A-17.3 to the contrary notwithstanding, a corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability.

(d) Expenses incurred by a director, officer, employee or agent in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall be ultimately determined that he is entitled to be indemnified by the corporation as authorized in this section, or in G.S. 55A-17.2 or G.S. 55A-17.3, or by any bylaw, agreement, vote of board of directors or members, or otherwise.

"§ 55A-17.2. *Indemnification in actions by outsiders.*—(a) When by reason of the fact that he is or was serving as director, officer, employee or agent of a corporation, or in any such capacity at the request of the corporation in any other corporation, partnership, joint venture, trust or other enterprise, any person is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, not brought by the corporation nor brought by any party seeking derivatively to enforce a liability of such a person to the corporation, such person shall be entitled to indemnification, or reimbursement by the corporation for any expenses, including attorneys' fees, or any liabilities which he may have incurred in consequence of such action, suit or proceeding, under the following conditions:

(1) If such person is wholly successful in his defense on the merits, or if the proceeding is an administrative or investigative proceeding which does not result in the indictment, fine or penalty of such person, he shall be entitled to reimbursement from the corporation of all his reasonable expenses of defense or participation, including attorneys' fees.

(2) If such person is wholly successful in his defense otherwise than solely on the merits, the corporation may pay or agree to pay to him such expenses of defense or participation, including attorneys' fees, as the board of directors in good faith shall deem reasonable, regardless of any adverse interest of any or all of the directors.

(3) If such person is not wholly successful or is unsuccessful in his defense, or with the proceeding to which he is a party results in his indictment, fine or penalty, the corporation may pay or agree to pay, in whole or in part, such expenses of defense or participation, including attorneys' fees, and the amount of any judgment, money decree, fine, penalty or settlement for which he may have become liable, if

a. a plan for such payment, in the case of corporations which have members, is approved by a consent in writing signed by the members entitled to vote or such plan is sent to the members entitled to vote, with notice of a members' meeting, whether annual or special, to be held to take action thereon and if at such meeting a plan is approved by a majority of such members, exclusive of those members to be benefited by the plan if approved, or

b. a majority of a quorum consisting of directors who are not parties to such action, suit or proceeding shall determine that such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful; and, if the corporation has members, after such determination by the directors, the corporation shall, not later than 60 days before any such payment or agreement to pay is made, send to all members of record on a record date not more than 10 days prior to the date of mailing, at their registered addresses, a statement specifying the persons to be paid, the amounts to be paid, and the nature and status of the suit or proceedings at the time of mailing.

c. in a proceeding brought by such person for such determination in the superior court of the district where the corporation has its registered office it shall be determined that such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. In such a proceeding, if the corporation has members, the court in its discretion may order notice thereof to be sent to such members in such manner and in such form as it may deem appropriate, at the expense of the corporation; and it may allow all members so notified to be heard in opposition to the determination requested.

(b) The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

"§ 55A-17.3. *Indemnity for litigation expenses in corporate action.*—(a) When a present or former director, officer, employee or agent of a corporation or any person who has served or is serving in such capacity at the request of the corporation in any other corporation, partnership, joint venture, trust or other enterprise, is sued, alone or with others, in the courts of this State, in any action seeking to establish his liability to the corporation arising out of his alleged dereliction of duty to the corporation, he shall in turn be entitled to

indemnification or reimbursement from the corporation for so much of his expenses of defense, including attorneys' fees, as the court in its discretion, upon motion for indemnification or reimbursement, duly made in such action, finds to be reasonable, if:

(1) such person is successful in whole or in part in the action against him or in any settlement thereof and the court finds that his conduct fairly and equitably merits such relief; or

(2) the court finds, despite his adjudication of liability, that such person has acted honestly and reasonably and that, in view of all the circumstances of the case, his conduct fairly and equitably merits such relief.

(b) When such action is brought in another state and the result thereof is as would have entitled the defendant officer or director to make a motion in the cause for indemnification or reimbursement of his expenses of defense under subsection (a) of this section if the action had been brought in this State, but no such relief is available in the state in which the action is actually brought, the defendant officer or director may bring a separate action against the corporation in this State for such indemnification or reimbursement as he might have recovered had the suit against him been brought in this State. Notice of said action for indemnification or reimbursement shall be sent, in such form as the court may approve and at the corporation's expense, to the party or parties plaintiff in the prior action who shall be entitled to be heard.

(c) Whenever indemnification or reimbursement as permitted in this section is sought from a corporation which has members, the court may in its discretion order notice of the claim thereof to be sent to the members in such manner and in such form as it may approve, at the expense of the corporation. All members so notified may be heard in opposition to the relief requested."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

S. B. 283 CHAPTER 237

AN ACT TO INCORPORATE FOXFIRE VILLAGE IN MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following provisions of law shall constitute the Charter of Foxfire Village:

"THE CHARTER OF FOXFIRE VILLAGE,
MOORE COUNTY, NORTH CAROLINA.

"ARTICLE I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. The inhabitants of Foxfire Village are a body corporate and politic under the name of 'Foxfire Village'. Under that name, they have all the powers, duties, rights and privileges and immunities conferred and imposed upon municipal corporations by the general law of North Carolina.

"ARTICLE II.

"CORPORATE BOUNDARIES.

"Sec. 2.1. The corporate boundaries of Foxfire Village, until changed in accordance with law, shall be as set out on a map entitled 'Boundary Map of

Foxfire Village, North Carolina'. The said map is maintained in the Office of the Village Clerk, as required by G.S. 160A-22.

"ARTICLE III.

"GOVERNING BODY.

"Sec. 3.1. Temporary Officers. Until the regular municipal election to be held in November 1977, Robert M. Cooper, George Anderson, Ralph Olmstead, Katie McWilliams, and Joseph N. Donovan are hereby appointed to act as the council of Foxfire Village, and they shall possess and may exercise the powers granted to the Village Council until their successors are elected and qualify. They shall appoint one member as mayor.

"Sec. 3.2. Structure of Governing Body, Number of Members. The governing body of Foxfire Village is the Village Council, which has five members.

"Sec. 3.3. Manner of Election of Council. The qualified voters of the entire Village shall elect the members of the Council. The municipal election shall be held and conducted by the County Board of Elections.

"Sec. 3.4. Term of Office of the Members of the Council. (a) Except for the temporary officers provided for in Section 3.1 of this Charter, and except as provided in Subsection (b), of this Section of the Charter, the members of the Village Council shall be elected for four-year terms.

(b) At the regular municipal election in 1977, the three persons receiving the highest number of votes for seats on the Council shall be elected to four-year terms; the two persons receiving the next highest number of votes for seats on the Council shall be elected to two-year terms. Beginning at the regular municipal election to be held in 1979, and every four years thereafter, two persons shall be elected to seats on the Council and shall serve four-year terms. Beginning at the regular municipal election to be held in 1981, and every four years thereafter, three persons shall be elected to seats on the Council and shall serve four-year terms.

"Sec. 3.5. Election of the Mayor, Term of Office. At the organizational meetings of the Council following each regular municipal election, the Council shall elect one of its members to serve as its Mayor. The Mayor shall serve as such at the pleasure of the Council.

"Sec. 3.6. Vacancies. Any vacancy in the office of Mayor shall be filled by appointment of the Council and the person appointed shall serve at the pleasure of the Council.

If a vacancy for any reason occurs on the Council, the remaining members shall, within 30 days, appoint a qualified voter to fill the vacancy as provided herein. If the vacancy occurs in the first two years of a four-year term, and more than 30 days prior to the regular municipal election, the person appointed shall serve until the organizational meeting of the Council following the election. At the regular municipal election, a person shall be elected to serve the unexpired term, said term to begin on the date of the organizational meeting. A vacancy occurring otherwise shall be filled for the unexpired term.

"ARTICLE IV.

"ELECTIONS.

"Sec. 4.1. Conduct of Village Elections. The Village elections shall be non-partisan and the results determined by a plurality of the votes cast, as provided by G.S. 163-292. The regular municipal election shall be held as provided in G.S. 163-279(a)(1) and the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

"Sec. 4.2. Recall of Officials by the People. (a) Who may be removed. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent.

(b) Petition filed and verified. The procedure to effect the removal of an incumbent of an elective office shall be as follows: a petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five percent (25%) of the total number of ballots cast at the last municipal election for the Village Council, demanding an election of a successor of the person sought to be removed, whose name shall be included in the petition, shall be filed with the Village Clerk; which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving street and lot or other number identification. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true, as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(c) Clerk to examine and certify sufficiency. Within ten days from the date of filing such a petition, the Village Clerk shall examine and from the voters' register ascertain whether the petition is signed by the requisite number of qualified electors, and he shall attach to the petition his certificate, showing the results of such examination. If by the Clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of the certificate. The Clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the Clerk shall submit the same to the Moore County Board of Elections without delay.

(d) Board to order primary. If the petition shall be found to be sufficient, the Moore County Board of Elections shall order and fix a date for holding a primary, as provided in Chapter 163 of the General Statutes of North Carolina for primaries in municipal election, such primary to be held not less than ten days nor more than twenty days from the date of the Clerk's certificate to the Board of Elections that a sufficient petition is filed. If in the primary election any candidate receives a majority of all the votes cast, he should be declared to be elected to fill out the remainder of the term of the officer who is sought to be recalled. If there be more than two candidates in such primary and no one receives a majority of all the votes cast therein, then there shall be an election held within twenty days from the date of the primary, at which election the two candidates receiving the highest vote in the primary shall be voted for. Candidates' names shall be placed on the ticket in the primary and election held, and the results canvassed, under the same rules, conditions and regulations as are prescribed for municipal election under Chapter 163 of the General Statutes of North Carolina. The Board of Elections shall make or cause to be made publication notice for ten days and all arrangements for holding such election, and the same shall be conducted, returned, and the results thereof declared in all respects as other municipal elections.

(e) Candidate elected succeeds to office. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any

person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Clerk shall place his name on the official ballot without nomination. At such election, if some other person than the incumbent is elected, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor.

(f) Vacancy filled. In case the party elected should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant, and in that event, the unexpired term shall be filled by election by the Village Council, but the Councilman removed shall not be eligible to election by the Council, and the person so elected by the Council shall be subject to recall as other elected officials. If the incumbent receives a majority of votes in the primary election, he shall continue his office.

(g) Application of method of removal. Such method of removal shall be cumulative and additional to any other method provided by law. In the event any officer is recalled and any person is elected as his successor, the right of recall of such successor so elected shall be as in the case of an officer originally elected.

"ARTICLE V.

"ADMINISTRATION.

"Sec. 5.1. Form of Government. Foxfire Village shall operate under the Council-Mayor form of government as provided in G.S 160A, Article 7, Part 3.

"ARTICLE VI.

"REGULATION OF INTOXICATING BEVERAGES.

"Sec. 6.1. Authorization for Malt Beverage and Unfortified Wine Election. Notwithstanding the minimum population requirement of G.S. 18A-52(a), an election is hereby authorized to be held in Foxfire Village for the purpose of determining whether malt beverages or unfortified wine or both shall be sold in Foxfire Village. In all other respects such an election shall be held in accordance with the provisions of G.S. 18A-52 and G.S. 18A-53.

"ARTICLE VII.

"AUTHORITY TO ESTABLISH A BUDGET AND LEVY TAXES.

"Sec. 7.1. The Council of Foxfire Village is authorized to consider and adopt a budget ordinance, including a property tax levy, as soon after the effective date of incorporation as is possible. The residents of Foxfire Village and the property located within the Village shall be liable for all municipal taxes imposed by the Village Council for the fiscal year 1977-1978, and each fiscal year thereafter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

H. B. 242 **CHAPTER 238**

AN ACT TO CREATE THE NORTH CAROLINA BEE AND HONEY ACT OF 1977.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly hereby declares that it is in the public interest to promote and protect the bee and honey industry in North Carolina and to authorize the Commissioner of Agriculture and the Board of Agriculture to perform services and conduct activities to promote, improve, and enhance the bee and honey industry in North Carolina particularly relative to small beekeepers; to regulate all bees of the superfamily *Apoidea* in any stage of development; the causal agents of their disease or disorders, and their pests; to protect the bee and honey industry in North Carolina from bee diseases and disorders and to provide regulatory services in the areas of pollination of plants, honeybee poisonings, thefts, bee management and marketing.

Sec. 2. Definitions. As used in this act:

(1) The term "apiary" means bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found.

(2) The term "bee(s)" means insects of the superfamily *Apoidea*; in particular, the honeybees, *Apis mellifera* (L). It includes all life stages of such insects, their genetic material, and dead remains.

(3) The term "beeyard" means a location or site where bees are located in hives.

(4) The term "board" means the North Carolina Board of Agriculture.

(5) The term "Brazilian or African bee" means bees of the subspecies *Apis mellifera Adansonii* and their progeny.

(6) The term "colony" means one hive and its contents, including bees, comb, and appliances.

(7) The term "comb" includes all materials which are normally deposited into hives by bees. It does not include extracted honey or royal jelly, trapped pollen, and processed beeswax.

(8) The term "commercial beekeeper" means a beekeeper who owns or operates 200 or more colonies of bees, or a beekeeper who moves bees across state lines.

(9) The term "commissioner" means the North Carolina Commissioner of Agriculture or his designated agents.

(10) The term "department" means the North Carolina Department of Agriculture.

(11) The term "disease" means any infectious disease, parasite, or pest that detrimentally affects bees.

(12) The term "disorder" means any disease, poisoning, pest, parasite, or predator damage, toxic substance injury, or undesirable trait or genetic strain of the bee that detrimentally affects bees or the bee and honey industry.

(13) The term "exposed" means having been in circumstances where the possibility of infection or damage by a disease or disorder occurred. Bees in an apiary where disease or disorder is present or where there has been an exchange of equipment with a diseased apiary may be considered exposed.

(14) The term "health certificate" means a statement issued by the State Entomologist certifying that bees or regulated articles are apparently free of

disease or disorder based on an inspection or freedom from exposure to disease or disorder.

(15) The term "hive" means any receptacle or container, or part of receptacle or container, which is made or prepared for the use of bees, or which is inhabited by bees.

(16) The term "honey" means for the purpose of defining honey as a regulated article in the control of bee diseases or disorders, the natural food product made by the honeybees from the nectar of flowers, the saccharine exudation of plants, honeydew, sugar, corn syrup, or any other material along with any adulterants.

(17) The term "honeybees" means honey-producing insects of the genus *Apis*.

(18) The term "honeyflow" means the seasonal yielding of nectar by honey plants.

(19) The term "honey plants" means blooming plants from which bees gather nectar or pollen.

(20) The term "infested or infected" means showing symptoms of or having been exposed to the causal agent of a bee disease or disorder to such a degree that there is a possibility of the infected organisms or material transmitting the disease or disorder to other bees.

(21) The term "moveable frame hive" means any hive where the frames can be removed without damaging the comb.

(22) The term "permit" means an authorization to allow movement or other action involving bees or regulated articles.

(23) The term "regulated article" means any bees, bee equipment, comb, beeswax, honey, pollen, causal agents of disease, toxic substances, products of the hive, containers, and any other item regulated under this Article or pursuant regulations.

(24) The term "symptomless carrier" means to possess or bear a disease or disorder in a suppressed state having the potential for spreading the disease or disorder.

Sec. 3. The commissioner shall promote the bee and honey industry in North Carolina. The commissioner may perform services, cooperate in research activities, conduct investigations, publish information and cooperate with the beekeeping industry to protect and improve beekeeping in North Carolina. He may work toward enhancing honey plants and improving honeybees. He may investigate thefts of honeybees, equipment or products; cooperate in preventative measures; and assist in prosecution of suspects.

Sec. 4. The board is authorized to accept gifts, grants, or donations from any source for the purpose of promoting and protecting the bee and honey industry. The board is authorized to issue grants or enter contracts or agreements for the furtherance of the purpose of this Article.

Sec. 5. The board may adopt regulations and set procedures for the purpose of carrying out the provisions of this Article. The board may adopt minimum standards for colony strength and disease tolerance levels for hives rented for pollination of crops, and the commissioner shall certify hives meeting those standards. The board may adopt regulations to regulate or prohibit entrance into North Carolina of bees or regulated articles to protect the bee and honey industry from bee diseases, disorders, overcrowding of honey pasture, or other encroachments deemed by the board not to be in the best

interest of the beekeepers of North Carolina. The board may adopt regulations relating to, but shall not be limited to, providing for inspection of bees; and surveying and developing regulations to control, eradicate, abate, prevent exposure to, or prevent the introduction of or movement into or within North Carolina of bee diseases, disorders, pests or enemies of bees; or products that are a threat to beekeeping in North Carolina. The diseases, disorders, and products regulated shall include, but not be confined to bee disease, poisons, bee pests, pollen, causal agents or disease, bee parasites and predators and toxic substances. The board may regulate undesirable species or strains of bees including but not limited to Brazilian or African strains of bees. Regulations may include articles, exposed to infection or infestation, bees, honey, honeycomb, beeswax, beeswax refuse, royal jelly, containers, and beekeeping equipment to include sale, exposure and shipment of said and like items. The board may adopt regulations governing beeyards or sites of commercial beekeepers. The board is authorized to adopt regulations and set fees for extra or special inspections, issuance of certificates, permits, registrations, and regulatory activities.

Sec. 6. The board may adopt regulations and procedures for the disposition of bees infected or infested with diseases or disorders, beekeeping equipment, and other regulated articles kept or moved in violation of this act and pursuant regulations. Such regulations may authorize the commissioner to quarantine, destroy, confiscate, or otherwise dispose of, eradicate, establish clean-up areas, and require owners to disinfect, fumigate, treat with drugs, or destroy bees or articles at their own expense or to take measures to eradicate bee diseases or disorders.

The board shall have authority to either allow, require, or forbid use of drugs in the control of bee diseases or disorders, and may define as infested or infected symptomless carriers of a disease or disorder, declare bees that have been treated with disease-masking drugs to be infested or infected, and consider bees or articles which have been exposed to a disease or disorder to be infected or infested.

The board may also adopt regulations governing beeswax salvage operations and honey house sanitation for disease prevention.

Sec. 7. The commissioner shall protect the bee and honey industry from diseases and disorders of the honeybee (*Apis mellifera*) and other insects in the superfamily (*Apoidea*) and shall provide services and enforce provisions of this act and pursuant regulations. The commissioner may adopt regulations for prohibiting or regulating the movement of bees and regulated articles into and from quarantine or clean-up areas and enforce procedures for control and clean up of diseases or disorders in such areas.

The commissioner is authorized to establish postentry quarantines and issue hold orders for inspection of bees or regulated articles imported into North Carolina.

Sec. 8. It is unlawful to knowingly give false information to the commissioner concerning diseased bees or bees exposed to disease, their treatment, or disposition.

The commissioner may require that bees be kept in moveable frame hives and be maintained in an inspectable condition or in other hives where an inspection for disease or disorder can be readily made.

The board may adopt regulations for issuance of health certificates, moving permits, and the registration of honeybees and may require marking or identification of honeybee colonies or apiaries.

Sec. 9. The commissioner may take emergency action with respect to board authority in the provisions of this Article if needed to protect the bee and honey industry in North Carolina. Such action shall remain in force until rescinded by the commissioner or acted on by the board.

Sec. 10. The commissioner shall have the authority to designate such employees of the department or persons collaborating with the department as may seem expedient to carry out the duties and exercise the powers provided by this Article. The commissioner is authorized to survey or inspect premises for the presence of bees or other regulated articles, inspect colonies for bee diseases and disorders, and otherwise enforce the provisions of this Article and pursuant regulations. The commissioner or his designated agent shall have authority to inspect vehicles or other means of transportation and their cargo suspected of carrying bees or regulated articles, and enter upon any premises to inspect any bees or regulated articles to determine the presence or absence of diseases or disorders.

Such inspections and other activities may be conducted with the permission of the owner or person in charge. If permission is denied the commissioner or his designated agent, such inspections and other activities may be conducted in a reasonable manner, with a warrant, with respect to any premises or vehicles. Such warrant shall be issued pursuant to Article 4A of Chapter 15. A superior court or district court judge may issue confiscation orders on any bees or articles for which confiscation is authorized in this act or pursuant regulations.

Sec. 11. If anyone shall attempt to prevent inspection as provided in this act or shall otherwise interfere with the Commissioner of Agriculture, or any of his agents, while engaging in the performance of his duties under this act, or shall violate any provisions of this act or any regulation of the Board of Agriculture adopted pursuant to this act, he shall be guilty of a misdeameanor and shall be fined not less than fifty dollars ($50.00) or imprisoned for not more than 30 days, for each offense. Each day's violation shall constitute a separate offense.

Sec. 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be enforced independently without any invalid provision or application, and to this end the provisions of this act are declared to be severable.

The current bee and honey procedures of the North Carolina Department of Agriculture shall remain in force until the board adopts procedures under the authority of this act.

Sec. 13. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1977.

H. B. 383 **CHAPTER 239**

AN ACT TO AMEND G.S. 130-166.29 TO EXTEND THE TIME PERIOD IN WHICH THE LOCAL HEALTH DIRECTOR MUST FORWARD THE RECORDS TO THE LOCAL BOARD OF HEALTH IN AN APPEAL FROM AN ADVERSE DECISION CONCERNING AN IMPROVEMENT PERMIT OR CERTIFICATE OF COMPLETION FOR A GROUND ABSORPTION SEWAGE SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-166.29, as the same appears in the 1974 Replacement of Volume 3B of the General Statutes, is amended in line 6 by deleting the words, "three days" and by inserting in lieu thereof the following, "five working days".

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of April, 1977.

H. B. 403 **CHAPTER 240**

AN ACT TO AMEND G.S. 14-234 TO PERMIT CERTAIN PUBLIC OFFICIALS TO TRANSACT BUSINESS WITH PUBLIC UTILITIES IN THE REGULAR COURSE OF BUSINESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-234 is hereby amended by inserting after the phrase "savings and loan associations" in line 9 of said section the words "or public utilities regulated under the provisions of Chapter 62 of the General Statutes", and at the end of the first paragraph of G.S. 14-234 insert the following language before the period: "by specific resolution on which such public official shall not vote".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1977.

H. B. 515 **CHAPTER 241**

AN ACT TO MAKE IT UNLAWFUL TO HUNT WITH FIREARMS FROM THE PUBLIC ROADS IN CUMBERLAND, PITT AND POLK COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt, kill, take, or attempt to hunt, kill, or take, any animal or fowl by or with the use of a firearm from or on any public road, street, highway or thoroughfare, or the right-of-way thereof, in Cumberland, Pitt and Polk Counties.

Sec. 2. Any person violating the provisons of this act is guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than fifty dollars ($50.00), or imprisonment for not more than 30 days, or both, in the discretion of the court.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1977.

H. B. 531

CHAPTER 242

AN ACT CREATING A DIVISION OF AGING IN THE DEPARTMENT OF HUMAN RESOURCES AND AMENDING STATUTES CREATING THE GOVERNOR'S COORDINATING COUNCIL ON AGING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-180 is rewritten to read as follows:

"PART 14.

"PROGRAMS ON AGING.

"§ 143B-180. *Governor's Advisory Council on Aging: creation, powers and duties.*—There is hereby created the Governor's Advisory Council on Aging of the Department of Human Resources. The Advisory Council on Aging shall have the following functions and duties:

(1) to make recommendations to the Secretary of Human Resources aimed at improving human services to the elderly;

(2) to study ways and means of promoting public understanding of the problems of the aging, to consider the need for new State programs in the field of aging, and to make recommendations to and advise the secretary on these matters;

(3) to advise the Department of Human Resources in the preparation of a plan describing the quality, extent and scope of services being provided, or to be provided, to elderly persons in North Carolina;

(4) to study the programs of all State agencies which provide services for elderly persons and to advise the Secretary of Human Resources on the coordination of programs to prevent duplication and overlapping of such services;

(5) to advise the Secretary of Human Resources upon any matter which the secretary may refer to it."

Sec. 2. G.S. 143B-181 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by deleting the word "Coordinating" from the title of the section and from the first line of the text of the section and substituting therefor in both places the word "Advisory", and by deleting the word "Coordinating" from the twenty-ninth line of the text of the section and substituting therefor the word "Advisory".

Sec. 3. G.S. 143B-140 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended to insert in line 20 the words "the Division of Aging," immediately after the words "the Division of Institutional Services," and before the words "and such other".

Sec. 4. Part 14 of Article 3 of Chapter 143B of the General Statutes is hereby amended by adding the following new sections, 143B-181.1 and 143B-181.2, to read as follows:

"§ 143B-181.1. *Division of Aging: creation, powers and duties.*—There is hereby created within the office of the Secretary of the Department of Human Resources a division of aging, which shall have the following functions and duties:

(1) to maintain a continuing review of existing programs for the aging in the State of North Carolina, and periodically make recommendations to the Secretary of Human Resources for transmittal to the Governor and the General Assembly as appropriate for improvements in and additions to such programs;

(2) to study, collect, maintain, publish and disseminate factual data and pertinent information relative to all aspects of aging. These include the societal, economic, educational, recreational and health needs and opportunities of the aging;

(3) to stimulate, inform, educate and assist local organizations, the community at large, and older people themselves about aging, including needs, resources and opportunities for the aging, and about the role they can play in improving conditions for the aging;

(4) to serve as the agency through which various public and nonpublic organizations concerned with the aged can exchange information, coordinate programs, and be helped to engage in joint endeavors;

(5) to provide advice, information and technical assistance to North Carolina State government departments and agencies and to nongovernmental organizations which may be considering the inauguration of services, programs, or facilities for the aging, or which can be stimulated to take such action;

(6) to coordinate governmental programs with private agency programs for aging in order that such efforts be effective and that duplication and wasted effort be prevented or eliminated;

(7) to promote employment opportunities as well as proper and adequate recreational use of leisure for older people, including opportunities for uncompensated but satisfying volunteer work;

(8) to identify research needs, encourage research, and assist in obtaining funds for research and demonstration projects; and

(9) to establish or help to establish demonstration programs of services to the aging.

The division shall function under the authority of the Department of Human Resources and the Secretary of Human Resources as provided in the Executive Organization Act of 1973 and shall perform such other duties as are assigned by the secretary.

"§ 143B-181.2. *Assistant Secretary for Aging: appointment and duties.*—(a) The Secretary of Human Resources shall appoint an assistant secretary in the Department of Human Resources, whose title shall be the Assistant Secretary for Aging. The Assistant Secretary for Aging shall monitor all aging programs in the Department of Human Resources and shall have such powers and duties as are conferred on him by this Part and delegated to him by the Secretary of Human Resources.

(b) The Assistant Secretary for Aging, through the appropriate subunits of the Department of Human Resources, shall, at the request of the Secretary, identify program needs for the aging, recommend program changes, coordinate intra-departmental program efforts, represent the secretary in aging matters before boards and commissions, the General Assembly and the public, coordinate program contacts between the Department of Human Resources and private, State and federal agencies, initiate special studies on aging matters, and have the responsibility of assuring that services are delivered to the elderly of the State."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1977.

H. B. 72 **CHAPTER 243**

AN ACT TO REPEAL THE MOTOR VEHICLE HABITUAL OFFENDER STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 20 of the General Statutes of North Carolina, consisting of G.S. 20-220 through G.S. 20-231, is hereby repealed.

Sec. 2. Any person whose driver's license has been revoked under the habitual offender statutes repealed by this act may apply to the Division of Motor Vehicles for a new license after three years from the commencement of the revocation. Upon the filing of such application, the division may, with or without a hearing, issue a new license upon satisfactory proof that the former licensee has been of good behavior for a minimum of three years from the date the revocation became effective and that his conduct and attitude are such as to entitle him to favorable consideration. The division must reissue a license to any person adjudged a habitual offender after five years from the commencement of the revocation if the person is otherwise eligible to be licensed under Article 2 of G.S. Chapter 20. If a person's license has been revoked for five years under the statutes repealed by this act (Article 8 of G.S. Ch. 20), his previous status as a habitual offender may not be used as a basis for denying him a license.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 270 **CHAPTER 244**

AN ACT TO AMEND THE LAWS RELATING TO COSTS IN CIVIL ACTIONS.

Whereas, during the Second Session of the 1975 General Assembly, G.S. 7A-305 was amended to increase the costs in civil actions; and

Whereas, the amendment was to be effective July 1, 1976; and

Whereas, subsequent to the enactment of the above legislation, the Administrative Office of the Courts construed the above statute to apply not only to all cases instituted in the General Court of Justice on or after July 1, 1976, but also to apply to all civil actions instituted prior to July 1, 1976, but dismissed after July 1, 1976; and

Whereas, such an application was clearly not the intent of the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 980 of the 1975 (Second Session 1976) Session Laws is hereby amended to read as follows:

"Sec. 4. This act shall become effective on July 1, 1976. However, it shall apply only to civil actions instituted on or after July 1, 1976, and shall not apply to civil actions initiated prior to July 1, 1976, regardless of the date of termination of such actions."

Sec. 2. This act shall not be construed to require a refund of any amount previously paid.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 436 CHAPTER 245

AN ACT TO MAKE THE LAW ENFORCEMENT OFFICERS OF THE VILLAGE OF PINEHURST ELIGIBLE FOR MEMBERSHIP IN THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND AND FOR SOCIAL SECURITY BENEFITS UNDER ARTICLE 2, CHAPTER 135 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166(m) is hereby amended by adding the following sentence at the end thereof:

"'Law enforcement officers' in the meaning of this Article shall also include law enforcement officers serving the Village of Pinehurst."

Sec. 2. G.S. 135-20(4) is hereby amended by adding the following sentence at the end thereof:

"The term 'political subdivision' also includes the Police Department of the Village of Pinehurst."

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 554 CHAPTER 246

AN ACT TO AUTHORIZE THE COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA, TO APPOINT PARK RANGERS AND LAKE WARDENS.

The General Assembly of North Carolina enacts:

Section 1. With respect to the use of city-owned reservoirs or bodies of water in Guilford County, the Council of the City of High Point may employ wardens to enforce any regulations, and stock such reservoirs with fish, and any lake wardens so employed shall, upon taking a proper oath, have all of the powers of peace officers, including the power of arrest, for the purpose, and no other, of enforcing federal and State laws and ordinances, rules and regulations of the city, which laws, ordinances, rules and regulations pertain to the protection of the city watershed and the protection of game and wildlife in said area; provided, that such lake wardens shall not be police officers of the city, nor shall they be eligible for membership in the Law Enforcement Officers Benefit and Retirement Fund, or in the High Point Policemen's Pension and Disability Retirement Fund.

Sec. 2. With respect to the use of city-owned or leased parks, playgrounds and recreation areas, the Council of the City of High Point may employ park rangers to enforce any such rules and regulations and any rangers so employed shall, upon taking a proper oath, have all of the powers of peace officers, including the power of arrest, for the purpose, and no other, of enforcing federal and State laws and ordinances, rules and regulations of the city pertaining to parks and recreation areas; provided, that such park rangers shall not be police officers of the city, nor shall they be eligible for membership

in the Law Enforcement Officers Benefit and Retirement Fund, or in the High Point Policemen's Pension and Disability Retirement Fund.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 555 CHAPTER 247

AN ACT TO AMEND CHAPTER 691 OF THE 1975 SESSION LAWS, AS AMENDED, RELATING TO THE PENSION FUND FOR THE RETIREMENT AND DISABILITY OF MEMBERS OF THE POLICE DEPARTMENT OF THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 496 of the 1955 Session Laws of the State of North Carolina, as amended by Chapter 761 of the 1971 Session Laws of the State of North Carolina, as amended and renumbered Section 5, by Chapter 282 of the 1973 Session Laws of the State of North Carolina, as amended by Section 6 of Chapter 691 of the 1975 Session Laws of the State of North Carolina, is hereby amended to read as follows:

"(a) The Board of Trustees shall consist of five members; the City Manager of the City of High Point and four additional members to be appointed by the Council of the City of High Point. The four appointed members shall include a licensed physician, a full-time paid member of the Police Department of the City of High Point, and two citizens of the City of High Point. The four appointed members shall serve for a term of three (3) years. Vacancies must be filled in the same manner as provided in the original selection."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 556 CHAPTER 248

AN ACT TO MAKE CHANGES IN THE CIVIL SERVICE COMMISSION, AND THE DUTIES OF THE CITY MANAGER OF THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 144 of the 1937 Public-Local Laws of the State of North Carolina, as amended by Chapter 402 of the 1937 Public-Local Laws of the State of North Carolina, as amended by Chapter 231 of the 1939 Public-Local Laws of the State of North Carolina, as amended by Chapter 841 of the 1947 Session Laws of the State of North Carolina, as amended by Chapter 299 of the 1955 Session Laws of the State of North Carolina, as amended by Chapter 554 of the 1957 Session Laws of the State of North Carolina, as amended by Chapter 522 of the 1961 Session Laws of the State of North Carolina, as amended by Chapter 929 of the 1961 Session Laws of North Carolina, as amended by Chapter 946 of the 1965 Session Laws of the State of

North Carolina, as amended by Chapter 313 of the 1967 Session Laws of the State of North Carolina, as amended by Chapter 813 of the 1967 Session Laws of the State of North Carolina, as amended by Chapter 686 of the 1971 Session Laws of the State of North Carolina, as amended by Chapter 721 of the 1971 Session Laws of the State of North Carolina, as amended by Chapter 1192 of the 1973 Session Laws of the State of North Carolina, is hereby repealed.

Sec. 2. There is hereby established a Career Service Commission for the City of High Point which shall consist of five members.

CAREER SERVICE COMMISSION

(1) Composition of Commission. There shall be established a Career Service Commission which shall consist of five members. The members shall be appointed by the Council of the City of High Point. One member shall be appointed to a term of one year. Two members shall be appointed for a term of two years. Two members shall be appointed for a term of three years. Thereafter, members shall be appointed for three-year terms. A chairman and other officers deemed necessary shall be selected annually by the members of the commission. A member shall not be able to succeed himself more than one time unless the appointment is for less than a complete term. A member can be removed by the city council prior to the expiration of his term only for cause. Membership of the Career Service Commission shall consist of qualified voters of the City of High Point.

(2) Employee Representation on the Commission. The Career Service Commission shall provide for two employee members in any event in which the commission shall assume the role of an administrative, fact-finding advisory hearing board as defined in Section 3(a). Employees shall be selected in an objective and impartial manner by the members of the commission to the extent that any appellant shall have peer representation on the hearing board, and that no member of the appellant's department shall sit on the hearing board at the time the appellant's hearing is being conducted. The employee peer representative shall not be more than one salary range above or below the salary range of the appellant. Assistant division heads and above shall not be eligible to serve on the appeals board except as a peer representative of the appellant.

(3) Function of Commission. The Career Service Commission shall serve in a fact-finding and advisory capacity to the city manager in matters relating to personnel administration of the city. The personnel director shall provide staff assistance as needed. The Career Service Commission shall make recommendations to the personnel director and city manager in the following areas of personnel administration:

(a) Shall serve as an administrative advisory and fact-finding hearing board in the event any permanent employee who has completed his/her initial probationary period is suspended, demoted or dismissed from the city service. The commission shall act as a hearing board only at the request of the suspended, demoted or dismissed employee. Any suspended, demoted or dismissed employee shall have the right to appeal directly to the city manager, provided such appeal shall be requested in writing and further that such request shall waive the right to appeal to the Career Service Commission. Hearings shall be administrative in nature and shall be conducted in closed session, unless an open session is requested by the employee. Both the employee and the appointing authority may have any person of his choice available to represent

him. In the event such person is an attorney, the attorney will be permitted only to represent his client, not plead his case as in a court of law. In this capacity, the hearing board shall gather facts through written and oral testimony from the appellant and the department head and/or witnesses for the appellant and the department head; determine facts derived from such written and oral testimony and submit recommendations and finding of facts in writing to the city manager and the employee. Final action shall be taken by the city manager within 10 days from the time such recommendations and finding of facts are received from the commission (10 working days). Final action taken by the city manager shall be in writing with copies to the appellant, the department head, all members of the hearing board and the personnel file of the appellant.

(b) Shall advise in methods used for recruitment and selection of candidates for appointment and promotion in city employment.

(c) Shall serve as an oral interview board for designated classes of positions.

(d) Shall advise on matters pertaining to the maintenance of the city's classification plan.

(e) Shall advise on matters relating to affirmative action and equal employment opportunity in city employment.

(f) Shall advise on matters pertaining to the job performance appraisal system of the city.

(g) Shall advise on policies and procedures governing the city's fringe benefit programs.

(h) Shall advise concerning methods of improving employee-employer relations.

(i) Shall advise on matters pertaining to training and safety programs for city employees.

(j) Shall advise on any other personnel matters as requested by the city manager.

Sec. 3. Article V, Chapter 107 of the 1931 Private Laws of North Carolina, as amended, is hereby rewritten as follows:

"ARTICLE V.

"CITY MANAGER.

(1) Appointment, qualification, term and compensation.

(a) The city council shall appoint the city manager who shall be the administrative head of the city government. He shall be chosen by the city council without regard to his political opinions and solely upon the basis of his character, training, experience and administrative qualifications and need not be a resident of the city or State when appointed. No member of the city council, during the term for which elected, shall be appointed as city manager. The city manager shall receive such compensation as shall be provided by the city council. He shall give such bond as may be required by the city council. He shall be appointed for an indefinite period and hold office during the pleasure of the council.

(2) The city manager shall:

(a) Be administrative head of the city government, shall, except as specifically otherwise provided for herein, subject to the approval of the city council, organize the administrative functions and affairs of the city into various departments, and through such departments efficiently administer the

functions and affairs of the city as provided for herein or as authorized by law or by the city council.

(b) See that within the jurisdiction of the city the laws of the State and the ordinances, resolutions, and regulations of the city council are faithfully executed.

(c) Attend all meetings of the city council with the right to take part in the discussion but with no vote, and recommend for adoption such measures as he shall deem expedient.

(d) Make reports to the city council from time to time upon the affairs of the city, and keep the council fully informed and advised of the city's financial condition and its present and future financial needs.

(e) Have power and authority, pending action by the city council to revoke licenses issued subject to revocation.

(f) Have the sole power to appoint and remove all heads of departments and all subordinate officers and employees of the city, unless otherwise provided in this charter.

(3) Other duties and procedures:

(a) Except for the purpose of inquiry, the city council and its members shall deal with the administrative service of the city through the city manager. No member of the city council shall give orders to or attempt to influence the action of any subordinate of the city manager either publicly or privately. Where this charter gives to the city manager the power to appoint or to employ persons in the administrative service of the city, neither the city council nor any of its members shall attempt to in any manner influence the city manager in the appointment or employment of any such person or persons, but the city manager shall be left free to exercise his own judgment in appointing such person or persons and he shall have the power to suspend and dismiss any person appointed and his action in every case shall be final.

(b) The city manager shall, except when clearly inconsistent with the provisions of this charter, exercise supervision and control over all departments and divisions of the city. He shall prepare and submit to the city council for its consideration and action a proposed annual budget and shall keep the council at all times advised as to the conditions and efficiency of the various departments of the city under his direction and control and of the needs and condition of the city. He shall perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the city council.

(c) The city manager shall not engage in electioneering nor take an active part in political campaigns nor attempt to influence the result of State, county or city elections except by exercising his right as a citizen to hold his own political views and to cast his own vote. Electioneering or improper political activities by the city manager or attempts to influence the results of election or primaries shall be cause for his immediate suspension or removal from office, either by the city council or by any judge of the superior court having jurisdiction upon mandamus or other appropriate proceedings instituted by any taxpayer of said city."

Sec. 4. Amendments to the Personnel Ordinance of the City of High Point shall be made only after notice and a public hearing. Such notice shall be published at least twice in a newspaper having general circulation in the City of High Point. The first notice shall be published not less than 20 days prior to the public hearing and the second notice shall be published not more than three

days prior to the public hearing. After such public hearing if the amendment be approved, it shall become effective as otherwise provided by law.

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 623 CHAPTER 249

AN ACT TO AMEND CHAPTER 657 OF THE 1975 SESSION LAWS TO PROVIDE FOR THE ELECTION AND RUNOFF ELECTION METHOD OF ELECTION AND TO PERMIT THE USE OF ABSENTEE BALLOTS IN ELECTIONS FOR THE DURHAM COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of Section 2 of Chapter 657 of the 1975 Session Laws is hereby rewritten to read as follows:

"The elections for the Durham County Board of Education shall be nonpartisan and the election and runoff election method shall be used with the results determined as provided in G.S. 163-293, and absentee ballots shall be permitted. Except as otherwise permitted herein, the elections shall be conducted in accordance with the applicable provisions of Chapter 163 of the General Statutes relating to elections for county offices."

Sec. 2. Except as hereby amended, all provisions of Chapter 657 of the 1975 Session Laws shall remain in effect.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 641 CHAPTER 250

AN ACT TO AUTHORIZE THE FORSYTH COUNTY BOARD OF COMMISSIONERS TO EXTEND THE TAX-LISTING PERIOD FOR THE YEAR 1977.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Forsyth County is hereby authorized to extend the time during which property is to be listed for ad valorem taxation through May 31, 1977. The period during which listing is extended pursuant to this act shall be considered part of the regular listing period, in addition to the listing period authorized by G.S. 105-307. Any such extension made by the Board of Commissioners shall be deemed to begin as of April 1, 1977.

Sec. 2. This act shall apply only to Forsyth County, and the authority granted herein shall only apply to the tax year of 1977.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 642 CHAPTER 251

AN ACT RELATING TO THE FORSYTH COUNTY OR CITY OF WINSTON-SALEM EMPLOYEES BECOMING MEMBERS OF THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Should the City of Winston-Salem or County of Forsyth become a member of the North Carolina Local Governmental Employees Retirement System, the board of aldermen of the city or board of county commissioners of the county may provide for its employees to receive prior service credit in the Local Governmental Employees Retirement System equal to the period of prior service credit which such employee has in the City of Winston-Salem or County of Forsyth retirement system at the time the city or county retirement system is merged into the Local Governmental Employees Retirement System, and no other prior service credit shall be given for service with the City of Winston-Salem or County of Forsyth.

Sec. 2. All laws and clauses of laws in conflict herewith, to the extent of such conflict, shall be inapplicable to the City of Winston-Salem and County of Forsyth.

Sec. 3. This act shall apply to the City of Winston-Salem and County of Forsyth only.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 659 CHAPTER 252

AN ACT AUTHORIZING THE CHARLOTTE CITY COUNCIL TO APPROPRIATE FUNDS ANNUALLY TO CAROLINAS' CARROUSEL, INCORPORATED, FROM NON-TAX REVENUE.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Charlotte is hereby authorized, in its discretion, to appropriate on an annual basis, funds to Carolinas' Carrousel, Incorporated, to help defray the expenses of the staging of the annual Carrousel Parade; provided, however, that any funds appropriated for this purpose shall be restricted to non-tax revenues.

Sec. 2. Carolinas' Carrousel, Incorporated, shall provide the Charlotte City Council an accounting of the expenditure of any funds so appropriated, said accounting to be made and submitted to the Charlotte City Council on or before June 1 of each year and at such other times as it may require.

Sec. 3. This act shall apply to the City of Charlotte only.

Sec. 4. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 673 **CHAPTER 253**

AN ACT TO DEFINE THE TERM "SUBDIVISION" FOR CHEROKEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335(2) is hereby amended to read as follows:

"(2) a. The division of land into parcels large enough to meet 'North Carolina Sediment Pollution Act of 1973' and applicable State and local health codes, but in no case division into less than two acre parcels where no street right-of-way dedication is involved.

b. The division of a tract under single ownership whose entire area is no greater than two acres into not more than three lots if fronting on a publicly maintained road and where the resultant lots are equal to or exceed the standards of the county, as stipulated in local ordinances."

Sec. 2. This act shall apply to Cherokee County only.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 684 **CHAPTER 254**

AN ACT TO PROVIDE THAT THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION MAY PAY ITS TEN-MONTH EMPLOYEES ON OR BEFORE THE TENTH OF EACH MONTH.

The General Assembly of North Carolina enacts:

Section 1. The Charlotte-Mecklenburg Board of Education may pay employees who are employed on a 10-month basis on or before the 10th day of each month during which they are employed.

Sec. 2. This act shall become effective August 1, 1977.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 687 **CHAPTER 255**

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO AUTHORIZE THE CITY CLERK TO APPOINT AND SUSPEND OR REMOVE SUBORDINATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, the same being Chapter 671, Session Laws of 1975, is amended by adding the following sentence at the end of the first paragraph of Section 20:

"The city clerk shall appoint and suspend or remove all subordinate employees of the city clerk's office."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 695 **CHAPTER 256**

AN ACT TO ALLOW THE DAVIDSON COUNTY BOARD OF COMMISSIONERS TO ESTABLISH A SCHOLARSHIP FUND IN MEMORY OF DENNIS FRANKLIN SPINNETT AND ROBERT GLENN CRAWFORD.

The General Assembly of North Carolina enacts:

Section 1. The Davidson County Board of Commissioners is authorized to establish annually two scholarships, not to exceed the amount of two hundred fifty dollars ($250.00) each, one in memory of Dennis Franklin Spinnett and one in memory of Robert Glenn Crawford, for the study of law enforcement at Davidson Community College. These scholarships may be renewed each year if approved by the board of commissioners. The scholarships are to be administered by the governing body of Davidson Community College. The scholarships may be awarded to one or more individuals.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 698 **CHAPTER 257**

AN ACT TO AUTHORIZE THE TOWN OF KENANSVILLE IN DUPLIN COUNTY TO SELL OR LEASE A TRACT OF LAND BY PRIVATE NEGOTIATION.

The General Assembly of North Carolina enacts:

Section 1. The Town of Kenansville in Duplin County is hereby authorized to sell or lease for adequate consideration the tract of land described in Section 2 to any purchaser or lessee through private negotiation for the purpose of industrial development.

Sec. 2. The tract of land is described as follows:

"BEGINNING at a stake on the Kenansville and Coopers Mill Road, corner of Lot No. 5 in the division of the Spicer Lands lying North of Grove Swamp, and runs with the line of Lot No. 5, North 76 1/2 degrees East 2220 feet to a stake; thence North 37 1/2 degrees West 840 feet to a stake in the line between Lots No. 3 and 4 in said division of the Spicer Lands; thence with said line between lots No. 3 and 4, South 75 degrees West 2190 feet to a stake in the said Kenansville and Coopers Mill Road; thence with said Road South 39 degrees East 346 feet to the beginning containing 40 acres, more or less, and being a part of Lot No. 4 in the division of the Spicer lands, aforesaid as described in a deed from Vance Cottle and wife, Margie A. Cottle to Ruby Gooding Newton and recorded in Book 406, Page 3, Duplin County Registry, and further being the same land described in a deed, dated October 1, 1948, from Ruby G. Newton and husband, Enoch A. Newton, to Isham Bell and wife, Daisy M. Bell, as recorded in Book 450, Page 169, Duplin County Registry, and also being the same land described in a correction deed, dated December 7, 1959, from Ruby G. Newton and husband, Enoch A. Newton, to Isham Bell and wife, Daisy M. Bell, as recorded in Book 521, Page 291, Duplin County Registry, to which reference is hereby had."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 713 CHAPTER 258

AN ACT TO REDEFINE THE DUTIES OF THE BLACK MOUNTAIN TOWN ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 747 of the 1951 Session Laws is hereby amended by rewriting Section 19 to read as follows:

"Sec. 19. Duties of town attorney. The attorney shall be an attorney at law licensed to practice in the State of North Carolina. There shall be two years' experience required of the town attorney. He shall be the chief legal adviser of and attorney for the town and all departments in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the department of law; to attend all meetings of the board of aldermen when requested; to give advice in writing, when so requested, to the board of aldermen or the director of any department; to prosecute or defend, as the case may be, all suits or cases to which the town may be a party; to prepare all contracts, bonds and other instruments in writing in which the town is concerned, and to endorse on each his approval of the form and correctness thereof; and to perform such other duties of a legal nature as the board of aldermen may require. In addition to the duties imposed upon the town attorney by this charter or required of him by ordinance or resolution of the board of aldermen he shall perform any duties imposed upon the chief legal officers of municipalities by law."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 717 CHAPTER 259

AN ACT TO PERMIT THE COMPENSATION AND EXPENSE ALLOWANCES OF MEMBERS OF THE DAVIDSON COUNTY BOARD OF EDUCATION TO BE FIXED BY THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. Any provision of G.S. 115-29 notwithstanding the Davidson County Board of Education may fix the compensation for each of its members not to exceed seventy-five dollars ($75.00) per month and may further fix the expense allowance to be paid for travel to and from the places of meeting and other travel expenses incurred in the performance of duties.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 723 CHAPTER 260

AN ACT TO AUTHORIZE THE TOWN OF CARRBORO TO EXERCISE ALL OF THE AUTHORITY GIVEN TO CITIES AND TOWNS WITH RESPECT TO PLANNING AND REGULATION OF DEVELOPMENT BY ARTICLE 19 OF CHAPTER 160A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provisions to the contrary in any local act pertaining to the Town of Carrboro, including Chapter 1088 of the Session Laws of 1969 and Chapter 660 of the Session Laws of 1969, the Town of Carrboro is hereby authorized to exercise all of the authority given to cities and towns with respect to planning and regulation of development by Article 19 of Chapter 160A of the General Statutes. The procedures established by general law for the exercise of these powers, including the creation of various boards and agencies, may be used, notwithstanding that other procedures are prescribed by local acts pertaining to Carrboro. The powers granted by Article 19 of Chapter 160A may be exercised within the territory specified by any local act applicable to the Town of Carrboro as well as within any area specified in an ordinance adopted pursuant to G.S. 160A-360.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 755 CHAPTER 261

AN ACT TO PROVIDE THAT IN THE SELECTION OF BOARDS OF ALCOHOLIC CONTROL FOR GATES AND HERTFORD COUNTIES ONLY THOSE MEMBERS OF THE GATES/HERTFORD DISTRICT BOARD OF HEALTH FROM GATES COUNTY SHALL VOTE ON APPOINTMENTS TO THE GATES COUNTY ALCOHOLIC CONTROL BOARD AND ONLY THOSE MEMBERS FROM HERTFORD COUNTY SHALL VOTE ON APPOINTMENTS TO THE HERTFORD COUNTY ALCOHOLIC CONTROL BOARD.

The General Assembly of North Carolina enacts:

Section 1. In the selection of the members of the boards of alcoholic control for Gates and Hertford Counties pursuant to the provisions of G.S. 18A-16, only those members of the joint Gates/Hertford District Board of Health who are citizens of Gates County shall vote on appointments to the Gates County Board of Alcoholic Control and only those members of said District Board of Health who are citizens of Hertford County shall vote on appointments to the Hertford County Board of Alcoholic Control.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

S. B. 323 **CHAPTER 262**

AN ACT RENAMING CEDAR CLIFF, LOCATED IN HAYWOOD COUNTY, AS FERGUSON MOUNTAIN.

The General Assembly of North Carolina enacts:

Section 1. Cedar Cliff, located in the lower Crabtree section of Haywood County, between the communities of Riverside, Panthers Creek and Rush Fork, is hereby officially designated and named "Ferguson Mountain".

Sec. 2. A copy of this act, upon ratification, shall be forwarded to the Executive Director, United States Board on Geographic Names, U.S. Geological Survey, National Center, Stop 523, Reston, Virginia, for the purpose of reguesting that all references to "Cedar Cliff" which appear on U.S. Geological Survey maps be changed to "Ferguson Mountain".

Sec. 3. All laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 461 **CHAPTER 263**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF NORTH WILKESBORO AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of North Wilkesboro is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF NORTH WILKESBORO.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. *Incorporation.* The Town of North Wilkesboro, North Carolina, in the County of Wilkes, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of North Wilkesboro', hereinafter at times referred to as the 'town'.

"Sec. 1.2. *Powers.* The Town of North Wilkesboro shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the Town of North Wilkesboro specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate limits.* The corporate limits of the Town of North Wilkesboro shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the town, and as the same may be altered from time to time in accordance with law. An official map of the town, showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the town shall be made.

"ARTICLE II.
"MAYOR AND BOARD OF COMMISSIONERS.

"Sec. 2.1. *Governing body.* The mayor and board of commissioners, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and board may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

"Sec. 2.2. *Selection of the mayor; term of office; duties.* The mayor shall be elected by the qualified voters of the town for a term of four years, in the manner provided by Article III of this Charter. The mayor shall be the official head of the town government, and shall preside at all meetings of the board of commissioners. The mayor shall have the right to vote on matters before the board only where there is an equal number of votes in the affirmative and in the negative.

"Sec. 2.3. *Board of commissioners; terms of office.* The board of commissioners shall be composed of five members, each of whom shall be elected for a term of four years, in the manner provided by Article III of this Charter.

"Sec. 2.4. *Mayor pro tempore.* In accordance with applicable State laws, the board of commissioners shall appoint one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

"ARTICLE III.
"ELECTIONS.

"Sec. 3.1. *Regular municipal elections; conduct; staggered terms.*

(a) Regular municipal elections shall be held in the town every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina.

(b) At the regular municipal election to be held in 1977, and every four years thereafter, the mayor of the town shall be elected for a four-year term.

(c) At the regular municipal election to be held in 1977, five members of the board of commissioners shall be elected. The two candidates who receive the highest number of votes shall be elected for four-year terms, while the three candidates who receive the next highest number of votes shall be elected for two-year terms. If two or more of the candidates who are elected receive an equal number of votes, so that the candidate or candidates who will serve four-year terms cannot be determined, the county board of elections shall determine by lot the length of the terms of such candidates.

(d) Beginning at the regular municipal election to be held in 1979, and every four years thereafter, three members of the board of commissioners shall be elected to serve for four-year terms. Beginning at the regular municipal election to be held in 1981, and every four years thereafter, two members of the board of commissioners shall be elected to serve for four-year terms.

"Sec. 3.2. *Method of election; officers elected at large.* The mayor and members of the board of commissioners shall be elected according to the partisan primary and election method set out in G.S. 163-291. The mayor and members of the board shall be elected by all of the qualified voters of the town.

"ARTICLE IV.
"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. *Form of government.* The town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *Town manager.* The board of commissioners shall appoint a town manager who shall be the administrative head of town government, and who shall be responsible to the board for the proper administration of the affairs of the town. The town manager shall hold office at the pleasure of the board of commissioners, and shall receive such compensation as the board shall determine. In exercising his duties as chief administrator, the manager shall have the following powers and duties:

(a) He shall appoint and suspend or remove all town officers and employees not elected by the people and whose appointment or removal is not otherwise provided for by law, except the town attorney and the employees of the police department, in accordance with such general personnel rules, regulations, policies, or ordinances as the board may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the town, except the police department, subject to the general direction and control of the board, except as otherwise provided by law. The police department shall remain under the control and supervision of the mayor and board of commissioners.

(c) He shall attend all meetings of the board, unless excused therefrom, and shall recommend any measures that he deems expedient.

(d) He shall prepare and submit the annual budget and capital program to the board.

(e) He shall keep the board fully advised as to the financial condition of the town and shall annually submit to the board, and make available to the public, a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(f) He shall make any other reports that the board may require concerning the operations of the town departments, offices and agencies subject to his direction and control.

(g) He shall perform any other duties that may be required or authorized by the board.

"Sec. 4.3. *Chief of police.* The board of commissioners shall appoint a chief of police to serve at its pleasure. The chief of police shall direct and supervise the administration of the police department, and shall see that all laws of the State and of the town are faithfully executed. The chief of police shall make an annual report to the board concerning the activities of the police department, and shall perform such other duties as the board of commissioners may direct.

"Sec. 4.4. *Town attorney.* The board of commissioners shall appoint a town attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the town attorney to prosecute and defend suits against the town; to advise the mayor, board of commissioners and other town officials with respect to the affairs of the town; to draft all legal documents relating to the affairs of the town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the town may be concerned; to attend meetings of the board of commissioners, and to perform other duties required by law or as the board may direct.

"Sec. 4.5. *Other administrative officers and employees.* Consistent with applicable State laws, the board of commissioners may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"ARTICLE V.

"RETIREMENT AND PENSION FUNDS.

"Sec. 5.1. *Retirement system.* (a) The board of commissioners is authorized and permitted, in its discretion, to contract with any company, firm, corporation or association for a system of retirement, disability or death benefits, or any combination thereof, for the employees and officials of the town, including the mayor and board of commissioners, and to expend the funds necessary therefor.

(b) The board is also authorized, in its discretion, to require payroll deductions of officials and employees who elect to participate in the system in order to provide funds which may be used to assist in defraying the cost of the system.

"Sec. 5.2. *Firemen's supplementary pension fund.* (a) There shall continue to be a supplementary pension fund for the fire department of the town, such fund to be known as the 'North Wilkesboro Firemen's Supplementary Fund', hereinafter referred to as 'Supplementary Pension Fund'. The fund is to be administered by a board of trustees composed ex officio of the town treasurer, the first assistant chief of the fire department of the town, and a third member of the board to be elected annually from the membership of the town fire department by a majority vote of the chief and members of the fire department, who shall perform his duties ex officio.

(b) All funds in the firemen's relief fund of the town in excess of five thousand dollars ($5,000) shall continue to be transferred to the 'Supplementary Pension Fund' so as to retain in the firemen's relief fund an amount of money not greater than five thousand dollars ($5,000); provided, however, the firemen's relief fund shall have restored such sums from recurring annual receipts as are necessary to maintain a fund of not less than five thousand dollars ($5,000); provided further, of the funds and subsequent recurring increments thereto transferred from the firemen's relief fund of the town to the 'Supplementary Pension Fund', any or all of the same shall be retrievable by and to the firemen's relief fund of the town in order to defray and meet such legitimate claims which accrue under the provisions and coverage of the firemen's relief fund.

(c) Any person who is a member of the town fire department, as shown by town records, or any person who shall become such a member, shall be eligible for benefits from the 'Supplementary Pension Fund' unless or until such person has been retired as a member of the town fire department under the provisions of the retirement system for counties, cities, and towns as set out in Article 3, Chapter 128 of the General Statutes of North Carolina and as participated in by the town, or as a voluntary member of the town fire department. This section does not modify or alter in any way the Workmen's Compensation Laws of the State of North Carolina.

(d) Any member who has served 25 years as a fireman in the town fire department and has attained the age of 55 shall be entitled to receive a pension from the 'Supplementary Pension Fund'. The pension shall be in the amount of

twenty dollars ($20.00) per month or more as below set forth, providing that those members retiring after the age of 55 and before attaining age 60 may elect to receive the increased amount.

Retirement Age	Amount
25 years service and at least 55	$20.00
26 years service and at least 56	$22.00
27 years service and at least 57	$24.00
28 years service and at least 58	$26.00
29 years service and at least 59	$28.00
30 years service and at least 60	$30.00

(e) The town treasurer, as a member of the board of trustees of the 'Supplementary Pension Fund', shall be treasurer and custodian of the fund and shall pay the beneficiaries thereof on the first day of each and every month any moneys in his possession that such beneficiaries may be entitled to under the provisions of this section.

(f) The town treasurer, as custodian of the 'Supplementary Pension Fund', shall be required to give a bond with an indemnity company authorized to do business in the State of North Carolina as surety in a sum equal to one and one-quarter times the maximum amount estimated by the board of trustees as likely to be in his possession as such custodian at any time within the fiscal year for which the bond is given. The condition of the bond shall be that the custodian shall faithfully receive, keep, disburse, and account for, as herein provided, all funds and property coming into his hands as such custodian, and the premiums on the bond shall be paid out of the 'Supplementary Pension Fund'.

(g) The custodian of the 'Supplementary Pension Fund' is authorized and directed to invest all moneys coming into his possession belonging to the 'Supplementary Pension Fund', except so much as the board of trustees from time to time determines is reasonably necessary for the prompt payment of claims and expenses, in such securities as the board of trustees shall select; provided, however, that such securities shall be limited to and upon the same conditions as those enumerated by the General Statutes of North Carolina, as amended, as to the investment of trust funds, and/or the funds of guardians.

(h) The board of trustees as herein provided for may, in its discretion, take and receive any gift, grant, bequest, or devise or any real or personal property or other things of value for, and as, the property of the 'Supplementary Pension Fund' and hold and disburse and invest the same for the use of the fund in accordance with the purpose of this section and the conditions attached to any such gift, grant, bequest or devise.

(i) The provisions of Chapter 118 of the General Statutes of North Carolina creating a firemen's relief fund shall not apply to the town insofar, and only insofar, as such provisions are inconsistent with and contradictory to the provisions of this section.

"ARTICLE VI.

"BOARDS AND COMMISSIONS.

"Sec. 6.1. *Board of Alcoholic Beverage Control.* (a) There shall continue to be a town board of alcoholic control, appointed and constituted as herein set forth, which shall have general power and authority over the town liquor control store in the manner provided herein.

(b) The town board of commissioners shall appoint the town board of alcoholic control, which shall be composed of a chairman and two other

members who shall be well known for their character, ability and business acumen. The board shall be known and designated as the 'Town of North Wilkesboro Board of Alcoholic Control'. The chairman of such board shall be designated by the board of commissioners and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; and all terms shall begin with the date of their appointment, and after the same terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the board, shall be named or filled by the board of commissioners.

(c) The town board of alcoholic control shall have all of the powers and duties imposed by Section 18A-17 of the General Statutes on county boards of alcoholic control, except as otherwise provided herein, and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Section 18A-15 of the General Statutes. The town board of alcoholic control and the operation of any town liquor store authorized under the provisions of this section shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this section. Wherever the word 'county' board of alcoholic control appears in such Chapter, it shall include the town board of alcoholic control.

(d) The net profits derived from stores operated under this section, as determined by quarterly audits, shall be allocated by the Board of Alcoholic Control and used as herein provided:

(1) Five percent (5%) of the net profits shall be expended by the Board of Alcoholic Control for law enforcement and education as to the effects of the use of alcoholic beverages.

(2) Ten percent (10%) of the net profits shall be paid to the Board of Trustees of Wilkes General Hospital.

(3) Twenty percent (20%) of the net profits shall be paid to the General Fund of Wilkes County to be appropriated for any proper governmental purpose.

(4) The remaining net profits shall be paid to the General Fund of the Town of North Wilkesboro to be used for any proper governmental purposes; provided that, the board of commissioners shall apply five percent (5%) of the funds allocated to recreational purposes for the benefit of the citizens of the town.

(e) Subsequent elections concerning the town liquor control store may be held, and such elections shall be conducted in accordance with the procedures contained in Chapter 412, Session Laws of 1965.

"ARTICLE VII.

"SPECIAL PROVISIONS.

(Reserved)."

Sec. 2. The purpose of this act is to revise the Charter of the Town of North Wilkesboro and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of North Wilkesboro.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Private Laws 1891, Chapter 198
Private Laws 1893, Chapter 50
Private Laws 1899, Chapter 314
Private Laws 1903, Chapter 133
Private Laws 1913, Chapter 144
Private Laws 1915, Chapter 286
Public-Local Laws 1917, Chapter 487
Private Laws 1917, Chapter 66
Private Laws 1917, Chapter 84
Private Laws, Ex. Session 1920, Chapter 34
Private Laws 1923, Chapter 267
Private Laws 1935, Chapter 219
Public-Local Laws 1939, Chapter 272
Public-Local Laws 1939, Chapter 332
Session Laws 1947, Chapter 1
Session Laws 1949, Chapter 1107
Session Laws 1949, Chapter 1142
Session Laws 1951, Chapter 839
Session Laws 1951, Chapter 840
Session Laws 1951, Chapter 841
Session Laws 1953, Chapter 398
Session Laws 1953, Chapter 559
Session Laws 1955, Chapter 765
Session Laws 1955, Chapter 1299
Session Laws 1955, Chapter 1300
Session Laws 1963, Chapter 37
Session Laws 1963, Chapter 357
Session Laws 1969, Chapter 120
Session Laws 1969, Chapter 617
Session Laws 1971, Chapter 38
Session Laws 1971, Chapter 67
Session Laws 1971, Chapter 333
Session Laws 1973, Chapter 383

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of North Wilkesboro and all existing rules or regulations of departments or agencies of the Town of North Wilkesboro, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of North Wilkesboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

S. B. 433 CHAPTER 264

AN ACT AUTHORIZING APPOINTMENT OF A BOARD OF EQUALIZATION AND REVIEW FOR TRANSYLVANIA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Transylvania County is hereby authorized and empowered to appoint a special Board of Equalization and Review for Transylvania County to be composed of five members. The board of county commissioners shall designate one of the five persons so appointed as chairman of the board of equalization and review.

To be eligible for appointment to such board, a person must have resided in Transylvania County for a period of at least one year immediately preceding his appointment, and must have had such experience in the appraisal and valuation of real and personal property as is satisfactory to the board of county commissioners. Members of the board of equalization and review shall serve at the pleasure of the board of county commissioners. Any vacancies which occur shall be filled by appointment of the board of county commissioners.

Members of the board may receive such compensation and reimbursement of expenses as fixed by the board of county commissioners.

Sec. 2. After a special board of equalization and review has been appointed and its members have taken the oath of office, it shall be vested with all of the powers and duties vested by law in county boards of equalization and review and boards of county commissioners with respect to the listing, appraisal, and assessment of property for taxation in the fiscal year beginning July 1 of the calendar year in which the board is appointed, except the following:

(1) the approval of late applications for the exclusion in G.S. 105-277.1,

(2) the authority to compromise discovery assessments in G.S. 105-312(k), or

(3) the approval of schedules of value in G.S. 105-317.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1977.

H. B. 478

CHAPTER 265

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-1 is amended by striking the word "Solicitors" and the words "Solicitorial district" and substituting for them the words "District Attorney" and "District Attorney district", respectively.

Sec. 2. G.S. 163-10 is amended by striking the word "solicitor" and substituting for it the words "district attorney".

Sec. 3. G.S. 163-72.1(a) is amended by striking the words and punctuation "(in triplicate)" in the second sentence and substituting for them the words and punctuation "(in duplicate)".

Sec. 4. G.S. 163-106(b) is amended by repealing the last paragraph of that subsection.

Sec. 5. G.S. 163-106(c) is amended by striking the words "All township offices".

Sec. 6. G.S. 163-107(b) is amended by repealing and rewriting the second paragraph to read as follows:

"If any person files a notice of candidacy and pays a filing fee to a board of elections other than that with which he is required to file under the provisions of G.S. 163-106(e), he shall be entitled to have the fee refunded in the manner prescribed in this subsection if he requests the refund before the date on which the right to file for that office expires under the provisions of G.S. 163-106(e)."

Sec. 7. G.S. 163-109(b) and (c) are amended by striking the words "solicitor" or "Solicitor" wherever they appear and substituting for them the words "district attorney" or "District Attorney", respectively.

Sec. 8. G.S. 163-109(d) is repealed.

Sec. 9. G.S. 163-111(e) is amended by adding a new sentence before the last sentence, to read as follows:

"The second primary is a continuation of the first primary and any voter who files a proper and timely affidavit of transfer of precinct, under the provisions of G.S. 163-72(c), before the first primary may vote in the second

primary without having to refile the affidavit of transfer if he is otherwise qualified to vote in the second primary."

Sec. 10. G.S. 163-140(e) is repealed.

Sec. 11. G.S. 163-154(a)(3) is repealed.

Sec. 12. G.S. 163-169(j) is repealed.

Sec. 13. G.S. 163-175 is amended by repealing the last paragraph.

Sec. 14. G.S. 163-177 is amended by striking the words "All township offices".

Sec. 15. G.S. 163-180 is amended by striking the words "township officers".

Sec.16. G.S. 163-247(1) is repealed and rewritten to read as follows:

"(1) Federal postcard application form. At any time prior to the statewide primary or general election in which he seeks to vote, the applicant may make and sign a written application to the Secretary of State for absentee ballots on the postcard form prescribed in Public Law 712 of the 77th Congress. Upon receiving such an application, the Secretary of State shall record the applicant's name and residence address on a record maintained for that purpose and immediately send the application to the chairman of the board of elections of the county in which the applicant has his residence, together with instructions for handling the application under the provisions of this Article."

Sec. 17. G.S. 163-251(b) is amended in the first sentence by striking the words "registered mail" and substituting for them the words "U. S. Mail".

Sec. 18. G.S. 163-294.2(b) is amended by striking the second and third sentences.

Sec. 19. G.S. 163-303 is repealed.

Sec. 20. Chapter 1116 of the Session Laws of 1965 is repealed.

Sec. 21. G.S. 163-35(b) is amended in the last sentence by deleting the words "G.S. 163-22(c)" and inserting in their place the words "G.S. 163-23".

Sec. 22. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1977.

H. B. 77 CHAPTER 266

AN ACT TO PROHIBIT OBSTRUCTING THE ADMINISTRATION OF JUSTICE BY PICKETING OR PARADING.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to General Statutes Chapter 14, Article 30 ("Obstructing Justice"), to read as follows:

"§ 14-225.1. *Picketing or parading.*—Any person who, with intent to interfere with, obstruct, or impede the administration of justice, or with intent to influence any justice or judge of the General Court of Justice, juror, witness, district attorney, assistant district attorney, or court officer, in the discharge of his duty, pickets, parades, or uses any sound truck or similar device within 300 feet of an exit from any building housing any court of the General Court of Justice, or within 300 feet of any building or residence occupied or used by such justice, judge, juror, witness, district attorney, assistant district attorney, or court officer, shall upon plea or conviction be guilty of a misdemeanor and imprisoned for not more than two years or fined not more than one thousand dollars ($1000), or both."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of April, 1977.

S. B. 295

CHAPTER 267

AN ACT TO AMEND THE HEALTH CARE FACILITIES FINANCE ACT TO PERMIT THE POWERS GRANTED THEREUNDER TO THE NORTH CAROLINA MEDICAL CARE COMMISSION TO BE EXERCISED BY THE EXECUTIVE COMMITTEE OF SAID COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131A-4 is hereby amended by adding an additional paragraph at the end thereof to read as follows:

"Any power granted to the commission under the provisions of this Chapter may be exercised by the executive committee of the commission when the commission is not in session, except that the executive committee may not overrule, reverse or disregard any action of the full commission. The chairman of the commission may call meetings of the executive committee at any time."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1977.

H. B. 566

CHAPTER 268

AN ACT TO AMEND ARTICLE 12 OF CHAPTER 131 OF THE GENERAL STATUTES OF NORTH CAROLINA TO PROVIDE THAT BONDS ISSUED BY A HOSPITAL AUTHORITY AND THE INTEREST THEREON ARE EXEMPT FROM STATE AND LOCAL TAXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131-110 is hereby amended by deleting the last sentence thereof in its entirety and substituting in lieu thereof the following sentence:

"Any bonds, notes, debentures or other evidence of indebtedness of an authority issued under the provisions of The Local Government Revenue Bond Act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective for the taxable years begining on and after January 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

S. B. 326 **CHAPTER 269**

AN ACT TO PROVIDE FOR THE ELECTION OF MEMBERS OF THE ROANOKE RAPIDS SANITARY DISTRICT BOARD.

The General Assembly of North Carolina enacts:

Section 1. Beginning with the next regular election for members of the Roanoke Rapids Sanitary District Board to be held in November 1977, the election shall be nonpartisan and decided by simple plurality as provided in G.S. 163-292. No primary election shall be held. Candidates shall file notice of candidacy at the same time as candidates filing for municipal office.

Sec. 2. Chapter 188, Session Laws of 1975 is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

S. B. 376 **CHAPTER 270**

AN ACT TO CORRECT AN ERROR IN CHAPTER 16 OF THE 1977 SESSION LAWS CONCERNING THE COMMISSIONERS OF THE TOWN OF RAYNHAM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 16 of the 1977 Session Laws is amended by deleting the number "1979" and inserting in lieu thereof the number "1977" in Section 1.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

S. B. 401 **CHAPTER 271**

AN ACT TO REVISE THE CHARTER OF THE TOWN OF BOLTON IN COLUMBUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants of the territory described in Section 2 of this act are a body corporate and politic under the name of the "Town of Bolton". Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

Sec. 2. Until modified in accordance with law, the boundaries of the Town of Bolton remain as described in Private Laws of 1915, Chapter 240, Section 2.

Sec. 3. The governing body of the Town of Bolton is the board of aldermen, which has five members, and the mayor.

Sec. 4. The qualified voters of the entire town shall elect the members of the board of aldermen.

Sec. 5. In the regular municipal election held in 1977, the three members elected with the highest number of votes shall be elected to four-year terms, and the two members elected with the next highest number of votes shall be elected to two-year terms. Thereafter, as the terms of office expire, members shall be elected to four-year terms.

Sec. 6. The qualified voters of the entire town elect the mayor for a two-year term of office.

Sec. 7. Town officers shall be elected on a nonpartisan basis and the results determined by plurality, as provided by G.S. 163-292.

Sec. 8. The Town of Bolton operates under the mayor-council plan as provided in Chapter 160A, Article 7, Part 3.

Sec. 9. Chapter 240 of the Private Laws of 1915 is repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

S. B. 505 **CHAPTER 272**

AN ACT TO PROVIDE THAT THE TOPSAIL BEACH TOWN COMMISSIONERS HEREAFTER SERVE STAGGERED TERMS.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 67 of the 1963 Session Laws is hereby amended by deleting the sentence in line 5 thereof beginning with "The term of office" and inserting in lieu thereof the following:

"The term of office of the mayor shall be for two years and until his successor is elected and qualified. Beginning with the election held in November 1977, the commissioners shall serve staggered terms. The three candidates receiving the most votes in the November 1977 election shall be elected to serve four-year terms. The two candidates placing fourth and fifth in the number of votes received in the November 1977 election shall be elected to serve two-year terms. Thereafter, all commissioners elected shall serve four-year terms. The terms of the commissioners and the mayor shall begin on the day next following their election."

Sec. 2. Section 14 of Chapter 67 of the 1963 Session Laws is hereby amended by deleting the sentence that reads as follows:

"The three candidates who receive the largest number of votes for commissioner shall be declared elected."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

S. B. 507 **CHAPTER 273**

AN ACT TO AUTHORIZE THE CITY OF KINSTON AND THE COUNTY OF LENOIR TO SELL OR LEASE TRACTS OF LAND BY PRIVATE NEGOTIATION.

The General Assembly of North Carolina enacts:

Section 1. The City of Kinston and the County of Lenoir are hereby authorized to sell or lease for adequate consideration the tracts or parcels of land described in Section 2 to any purchaser or lessee through private negotiation for the purpose of economic or industrial development.

Sec. 2. The tracts of land are described as follows:

"First tract. Being all of parcels number 4 and 5 as depicted upon that certain map of record in Map Book 3, page 113, Lenoir County Registry.

"Second tract. All of those parcels lying Northeast of North Carolina Secondary Road Number 1578 (Airport Road) and depicted on that certain map of record in Map Book 6, page 81, Lenoir County Registry, excepting therefrom an 80 x 165 tract described in Deed Book 623, page 713, Lenoir County Registry.

"Third tract. Those parcels of land lying Southwest of North Carolina Secondary Road Number 1578 (Airport Road) and depicted on that certain map of record in Map Book 14, page 50, Lenoir County Registry, including a triangular parcel containing approximately 76/100 of an acre, more or less, and described in Deed Book 655, page 333, Lenoir County Registry; excepting therefrom those parcels described in deeds recorded in Deed Book 675, page 712, Deed Book 666, page 490, Deed Book 685, page 63, and Deed Book 643, page 703, all as recorded in Lenoir County Registry."

Reference is hereby made to the foregoing maps and deeds for a more accurate description of the hereinabove described tracts. All above described property is jointly owned by the City of Kinston and County of Lenoir and is known as the "Airport Industrial Property".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

H. B. 427 CHAPTER 274

AN ACT TO REPEAL CHAPTER 102 OF THE SESSION LAWS OF 1971, AND TO PROVIDE FOR THE TRANSFER OF REGISTERED VOTERS SO AFFECTED.

The General Assembly of North Carolina enacts:

Section 1. That Chapter 102, Session Laws of 1971, be, and the same is hereby repealed.

Sec. 2. The Orange County Board of Elections is hereby authorized and directed to transfer the registration records of all persons registered with it pursuant to the provisions of the act above referred to, to the Durham County Board of Elections, and the Durham County Board of Elections is hereby authorized and directed to accept said registrations, if such person is otherwise qualified, and to permit said persons so registered to vote in any general or special election held within the Town of Chapel Hill pursuant to State law.

Sec. 3. The Town of Chapel Hill shall reimburse the Durham County Board of Elections for the actual cost involved in the conduct of such elections.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

H. B. 564 **CHAPTER 275**

AN ACT AUTHORIZING APPOINTMENT OF A BOARD OF EQUALIZATION AND REVIEW FOR UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Union County is hereby authorized and empowered to appoint for each calendar year a special Board of Equalization and Review for Union County to be composed of five members. Should the Board of County Commissioners elect to appoint a special Board of Equalization and Review for Union County, the appointments to said board will be made not earlier than the first Monday in January and not later than the first Monday in March of the year for which it is to be effective. The board shall elect its own chairman. To be eligible for appointment to such board, a person must have resided in Union County for a period of one year immediately preceding his appointment and must have such other qualifications as are satisfactory to the Board of County Commissioners. Members of the Board of Equalization and Review shall serve during the calendar year for which they are appointed. Any vacancies on the Board of Equalization and Review shall be filled by the Board of County Commissioners and all appointments to the Board of Equalization and Review shall terminate upon final adjournment of the board for the year for which they are appointed.

Sec. 2. All members of the special Board of Equalization and Review shall receive for their services such compensation and reimbursement of expenses incurred in connection with their duties as may be fixed by the Board of County Commissioners. The Board of County Commissioners is authorized to provide such clerical and other assistants as they may deem advisable.

Sec. 3. Should the Board of County Commissioners of Union County elect to appoint a special Board of Equalization and Review for Union County, after such special Board of Equalization and Review has been appointed and its members have taken the oath of office, it shall be vested with all of the powers and duties vested by law in county boards of equalization and review for the calendar year in which the board is appointed. Upon final adjournment of the special Board of Equalization and Review for the year in which they are appointed, all powers and duties of the special Board of Equalization and Review shall then vest in the Board of County Commissioners.

Sec. 4. This act applies only to Union County.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

H. B. 599 **CHAPTER 276**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SCOTLAND NECK TO REMOVE THE LIMITATION ON THE AUTHORITY OF THE BOARD OF COMMISSIONERS TO COMPENSATE THE MAYOR AND MEMBERS OF THE BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 923, of the 1961 Session Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

H. B. 646 **CHAPTER 277**

AN ACT TO AMEND G.S. 143-129 AND G.S. 143-131 TO INCREASE THE MINIMUM DOLLAR AMOUNT FOR WHICH FORMAL AND INFORMAL BIDS ARE REQUIRED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-129, as the same appears in the 1975 Cumulative Supplement to 1974 Replacement Volume of Volume 3C of the General Statutes, is hereby amended in paragraph 1, line 5, be deleting the words and figures "Two thousand five hundred dollars ($2,500)" and inserting in lieu thereof the words and figures "Five thousand dollars ($5,000)".

Sec. 2. G.S. 143-131, as the same appears in the 1974 Replacement Volume of Volume 3C of the General Statutes, is hereby amended in paragraph 1, line 3, by deleting the words and figures "One thousand dollars ($1,000)" and inserting in lieu thereof the words and figures "Two thousand five hundred dollars ($2,500)".

Sec. 3. This act shall apply to Guilford County only.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

H. B. 647 **CHAPTER 278**

AN ACT TO AMEND G.S. 128-24(4) RELATING TO THE RETIREMENT OF LOCAL GOVERNMENT EMPLOYEES IN GUILFORD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-24(4) as the same now appears in Volume 3B of the General Statutes is hereby amended by deleting the phrase "uniformed policeman or fireman" and replacing it everywhere it appears with the phrase "uniformed policeman, emergency transportation personnel or fireman."

Sec. 2. This act is to apply to Guilford County only.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1977.

H. B. 648 CHAPTER 279

AN ACT TO AMEND CHAPTER 704, SECTION 1, SESSION LAWS OF 1943 RELATING TO FUNDS FOR BURIAL OF INDIGENTS IN GUILFORD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 704, Section 1, Session Laws of 1943 is hereby amended by deleting the words and figures "forty dollars ($40.00)" and inserting in lieu thereof the words and figures "five hundred dollars ($500.00)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 709 CHAPTER 280

AN ACT TO AUTHORIZE THE CAMDEN COUNTY BOARD OF COMMISSIONERS TO ENTER INTO A LEASE OF A CERTAIN PARCEL OF REAL PROPERTY OWNED BY THE COUNTY FOR A TERM OF UP TO 99 YEARS.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Camden County is hereby authorized to lease by private negotiation that tract of land deeded to the county by deed dated December 17, 1976, from the Union Camp Corporation to the Camden County Board of Commissioners recorded in Deeds Book 65 on page 648 in the Register of Deeds Office for Camden County. The commissioners may lease the said tract for any period up to 99 years.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 725 CHAPTER 281

AN ACT TO AMEND CHAPTER 1151, SESSION LAWS OF 1949 TO PROVIDE STAGGERED TERMS OF FOUR YEARS FOR THE BOARD OF COUNTY COMMISSIONERS OF HYDE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 1151, Session Laws of 1949 is rewritten to read:

"Sec. 2. Beginning with the regular primary election in 1978, there shall be nominated one member of the Board of Commissioners from each of the three districts."

Sec. 2. Section 3 of Chapter 1151, Session Laws of 1949 is rewritten to read:

"Sec. 3. Beginning with the general election for county officers to be held in 1978, one commissioner shall be elected from each of the districts. The two candidates, equal to the number of positions to be filled in each district, receiving the highest number of votes shall be elected for terms of four years, and the candidate receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 743 CHAPTER 282

AN ACT TO AMEND CHAPTER 385 OF THE PUBLIC-LOCAL LAWS OF 1921, RELATING TO PENSIONS FOR SCHOOL TEACHERS OF NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 385 of the Public-Local Laws of 1921, as amended, is further amended by adding a new sentence at the end of said Section 1 to read as follows: "Effective July 1, 1978, the treasurer of the county shall pay over to the New Hanover County Board of Education all funds collected and deposited in the County School Pension Fund and the New Hanover County Board of Education shall make all payments to certified employees."

Sec. 2. Section 2 of Chapter 385 of the Public-Local Laws of 1921, as amended, is further amended by adding a new sentence at the end of said Section 2 to read as follows: "Effective July 1, 1978, the treasurer of the county shall pay over to the New Hanover County Board of Education all funds collected and deposited in the County School Pension Fund and the New Hanover County Board of Education shall make all payments to certified employees."

Sec. 3. Section 3 of Chapter 385 of the Public-Local Laws of 1921, as amended, is further amended by striking out the words "January, April, June and October" in the last line of Section 3 of said Chapter and inserting in lieu thereof the words "each month"; and by adding a new sentence at the end of said Section 3 to read as follows: "Effective July 1, 1978, the treasurer of the county shall pay over to the New Hanover County Board of Education all funds collected and deposited in the County School Pension Fund and the New Hanover County Board of Education shall make all payments to certified employees."

Sec. 4. This act shall apply to New Hanover County only.

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 763

CHAPTER 283

AN ACT TO AMEND THE 1927 SESSION LAWS TO PERMIT THE ELECTION OF YANCEYVILLE SANITARY DISTRICT BOARD MEMBERS IN STAGGERED TERMS.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 100 of the 1927 Session Laws is hereby amended by adding the following:

"The Yanceyville Sanitary District Board Members shall be elected in staggered terms of four years' duration. The first such election shall commence with the general election of 1978 when the two candidates with the highest popular vote shall be elected to four-year terms and the candidate with the third highest popular vote shall be elected to a two-year term. In the general election of 1980 the candidate with the highest popular vote shall be elected to a four-year term. After the completion of the terms of the aforesaid board members, all subsequent candidates shall be elected to four-year terms in accordance with the aforesaid staggered election process."

Sec. 2. The provisions of Section 1 of this act shall apply only to the Yanceyville Sanitary District.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 777

CHAPTER 284

AN ACT AUTHORIZING APPOINTMENT OF A BOARD OF EQUALIZATION AND REVIEW FOR ANSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Anson County is hereby authorized and empowered to appoint a special Board of Equalization and Review for Anson County to be composed of three members. The board of county commissioners shall designate one of the three persons so appointed as chairman of the board of equalization and review.

To be eligible for appointment to such board, a person must have resided in Anson County for a period of at least one year immediately preceding his appointment, and must have had such experience in the appraisal and valuation of real and personal property as is satisfactory to the board of county commissioners. Members of the board of equalization and review shall serve at the pleasure of the board of county commissioners. Any vacancies which occur shall be filled by appointment of the board of county commissioners.

Members of the board may receive such compensation and reimbursement of expenses as fixed by the board of county commissioners.

Sec. 2. After a special board of equalization and review has been appointed and its members have taken the oath of office, it shall be vested with all of the powers and duties vested by law in county boards of equalization and review and boards of county commissioners with respect to the listing, appraisal, and assessment of property for taxation in the fiscal year beginning

April 1 of the calendar year in which the board is appointed, except the following:

(1) the approval of late applications for the exclusion in G.S. 105-277.1,

(2) the authority to compromise discovery assessments in G.S. 105-312(k), or

(3) the approval of schedules of value in G.S. 105-317.

Sec. 3. A property owner who has sought a review by the board of equalization and review may appeal from any decision of that board to the board of county commissioners. The board of county commissioners may review and modify any decision of the board of equalization and review on appeal by the property owner.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 837 CHAPTER 285

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF EDEN AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6 AND G.S. 118-7 TO THE CITY OF EDEN.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Eden, as established in accordance with G.S. 118-6, hereinafter called the board of trustees, shall create and maintain a separate fund to be called the Eden Firemen's Supplemental Retirement Fund, hereinafter called the supplemental retirement fund, and shall maintain books of account for such fund separate from the books of account of the Local Firemen's Relief Fund of the City of Eden, hereinafter called the local relief fund. The board of trustees shall pay into the supplemental retirement fund the funds prescribed by this act.

Sec. 2. Transfers of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Relief Fund of the City of Eden shall:

(a) prior to January 1, 1978, transfer to the supplemental retirement fund all funds, including earnings on investments, of the local relief fund in excess of forty thousand dollars ($40,000);

(b) at any time when the amount of funds in the local relief fund shall, by reason of disbursements authorized by G.S. 118-7, be less than forty thousand dollars ($40,000), transfer from the supplemental retirement fund to the local relief fund an amount sufficient to maintain in the local relief fund the sum of forty thousand dollars ($40,000);

(c) as soon as practicable after January 1 of each year, but in no event later than July 1, divide the sum of the annual funds paid to the local relief fund by authority of G.S. 118-5, the income earned in the preceding calendar year upon investments of funds belonging to the local relief fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental retirement benefits. (a) Each retired fireman of the city who has previously retired with 20 years service or more as a city fireman,

and who retired subsequent to attaining the age of 55 years, shall be entitled to and shall receive an annual supplemental retirement benefit equal to one share for each full year of service as a fireman of the city; provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars ($600.00).

(b) Any former fireman of the city who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, shall nevertheless be entitled to such benefits in any calendar year in which the board of trustees makes the following written findings of fact:

(1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the city a position of employment in the normal duties of which he was capable of performing; and

(4) that, since the preceding January 1, a physician licensed to practice medicine in North Carolina has certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; provided, that the board of trustees, after initially making the findings of fact specified in (1) and (2) of this subsection, need not specify such findings in subsequent calendar years.

Sec. 4. Intention. It is the intention of Sections 1, 2, and 3 of this act to authorize in any calendar year the disbursement of supplemental retirement benefits only when the Local Firemen's Relief Fund of the City of Eden equals or exceeds forty thousand dollars ($40,000).

Sec. 5. Investment of funds. The board of trustees is hereby authorized to invest any funds, either of the local relief fund or of the supplemental retirement fund, in any investment named in or authorized by G.S. 159-28.1, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the supplemental retirement fund in one or more of such investments.

Sec. 6. Acceptance of gifts. The board of trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the supplemental retirement fund.

Sec. 7. Bond of treasurer. The board of trustees shall bond the treasurer of the local relief fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees shall pay from the local relief fund the premiums of the bond of the treasurer.

Sec. 8. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 860 CHAPTER 286

AN ACT TO AUTHORIZE THE CITY OF LINCOLNTON AND THE COUNTY OF LINCOLN TO ESTABLISH AND OPERATE A JOINT AIRPORT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the City of Lincolnton-County of Lincoln Airport Authority with a charter as follows:

ARTICLE I.

Airport Defined.

"Airport or landing field", for the purpose of this and the sections following, is defined as any plot of land or water formally set aside and designated as a place where aircraft may land or take off.

ARTICLE II.

Joint Operation of Airport - Authorized.

The governing bodies of the City of Lincolnton and the County of Lincoln are hereby authorized to jointly acquire, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate airports or landing fields for the use of Lincoln County or either of them and may use for such purpose or purposes any properties suitable therefor that are now or may at any time hereafter be jointly owned or controlled by said city and county.

ARTICLE III.

Same - Eminent Domain, Joint Power.

Any lands acquired, owned, controlled, or equipped for the purpose enumerated in Article II hereof, shall and are hereby declared to be acquired, owned, controlled and occupied for a public purpose, and said city and county shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public purpose.

ARTICLE IV.

Same - Appropriation of Funds.

Private property needed for an airport or landing field may be acquired by gift or devise or shall be acquired by purchase if the governing bodies are able to agree with the owners on the terms thereof, and otherwise by condemnation as provided by law for the acquirement of private property for municipal parks or streets. The purchase price, or award, for property acquired for an airport or landing field may be paid for by appropriation of monies available therefor or by the application of any funds derived by either of said governing bodies from the sale of any lands now or heretofore or hereafter owned for airport or landing field purposes, or other purposes, or wholly or partly from the proceeds of the sale of bonds of either governing body, as they shall determine.

ARTICLE V.

Financing.

To carry out the purposes of this as to the establishment, maintenance and operation of an airport, the governing bodies are each hereby authorized to appropriate non-tax funds, to appropriate funds derived from ad valorem taxes pursuant to G.S. 63-8.1, and to issue bonds pursuant to Chapter 159 of the General Statutes.

ARTICLE VI.

Lincolnton-County of Lincoln Airport Authority Appointment.

The joint board to be appointed by the governing bodies of the city and county shall be known as the "Lincolnton-Lincoln County Airport Authority" (hereinafter referred to as the "Airport Authority"), and shall have the powers and jurisdiction hereinafter enumerated and such additional powers as shall be conferred upon it by future acts of the General Assembly.

The airport authority shall consist of six members to be appointed in the following manner for the following terms: One member to be appointed by the Board of Aldermen of the City of Lincolnton for a term of three years, one member for a term of two years and one member for a term of one year. Such members to be appointed by said City of Lincolnton shall be qualified voters of the City of Lincolnton. One member to be appointed by the county board of commissioners for a term of three years, one member for a term of two years, and one member for a term of one year. Said members to be appointed by the board of commissioners shall be qualified voters of the county. All vacancies shall be filled in the same manner as the original appointment. Each member and his successor so appointed shall take and subscribe an oath of office and file the same with the clerk of superior court.

Powers; compensation of members. The airport authority so appointed by the governing bodies shall act in an administrative capacity, and shall be vested with the authority to control, lease, maintain, construct, improve, operate and regulate the joint airport or landing field. It shall have complete authority over any airport or landing field jointly acquired by the governing bodies represented on said board. Provided, that said airport authority shall have no authority to pledge the credit of the city or county. The said airport authority shall have power and authority to deal with the Civil Aeronautics Authority of the United States Government or State government, relative to the grading, constructing, equipping, improving, maintaining and operating of airports or landing fields established under the authority of this act. A majority of said board shall control its decisions, and in the event of a tie, the same shall be broken by the chairman. At the first meeting of said board and annually thereafter, it shall elect a chairman from among its members. The airport authority shall meet at such place and time as the chairman of said airport authority shall designate. The members of the said board shall serve without compensation but may be reimbursed for out-of-pocket expenses. Members of said airport authority shall not be personally liable in any manner for their acts as members, except for misfeasance or malfeasance.

Additional powers. The said airport authority shall have the following additional powers and authority:

(a) To charge and collect reasonable and adequate fees for concessions and rents for the use of the airport property or for services rendered in the operation thereof.

(b) To make all reasonable rules and regulations as it deems necessary for the proper maintenance and operation of said airport, to provide penalties for the violation of such rules and regulations; provided said rules and regulations and schedule of fees are not in conflict with the laws of the State of North Carolina and the rules and regulations of the Civil Aeronautics Administration of the federal government.

(c) To employ such agents, engineers and attorneys and other persons whose services may be deemed by the airport authority to be necessary or useful in carrying out the provisions of this act.

Report. Said airport authority shall make an annual report to the governing bodies of the City of Lincolnton and the county, setting forth in detail the operations and transactions conducted by it pursuant to this act.

Sec. 2. If any part of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act. The General Assembly expressly declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 953 CHAPTER 287

AN ACT TO AMEND CHAPTER 497 OF THE 1965 SESSION LAWS RELATING TO COMMISSIONERS FOR THE TOWN OF DENTON.

The General Assembly of North Carolina enacts:

Section 1. Chapter 497 of the 1965 Session Laws is hereby amended by deleting from subsection 3.2(c) the second sentence and substituting in lieu thereof the following:

"A commissioner appointed to fill an unexpired term shall serve until the next biennial municipal election."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

S. B. 344 CHAPTER 288

AN ACT TO TRANSFER THE STATE EMPLOYEE MERITORIOUS SERVICE AWARD SYSTEM FOR EMPLOYEE SUGGESTIONS FROM THE STATE PERSONNEL SYSTEM TO THE SECRETARY OF ADMINISTRATION.

The General Assembly of North Carolina enacts:

Section 1. Subsection (8) of G.S. 126-4 is amended by inserting a period after the word "awards" appearing in line 2 thereof and deleting the language of the subsection following the word "awards".

Sec. 2. G.S. 143-340 is amended by inserting therein a new subsection to be designated "(1)" to read as follows:

"(1) to establish a meritorious service award system for State employee suggestions which may include cash awards to be paid from savings resulting from the adoption of employee suggestions, but in no case shall the cash award exceed ten percent (10%) of the savings resulting during the first year following adoption or a maximum of one thousand dollars ($1,000)."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 585

CHAPTER 289

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF STATESVILLE AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Statesville is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF STATESVILLE.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. *Incorporation.* The City of Statesville, North Carolina in the County of Iredell, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the "City of Statesville".

"Sec. 1.2. *Powers.* The City of Statesville shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now or hereafter may be conferred, either expressly or by implication, upon the City of Statesville specifically or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or special statute. Provided further that the City of Statesville shall be authorized to participate in all Federal programs not contrary to the Constitution of the State of North Carolina and not explicitly denied to municipalities by the General Statutes.

"Sec. 1.3. *Corporate Limits.* The corporate limits of the City of Statesville shall be those existing at the time of the ratification of this Charter, as the same are set forth on the official map and written description of the City, and as the same may be altered from time to time in accordance with law. The official map and written description of the City, showing the current City boundaries, shall be maintained permanently in the office of the City Clerk, and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the Council shall cause to be made the appropriate changes to the official map and written description.

"ARTICLE II.

"MAYOR AND COUNCIL.

"Sec. 2.1. *Governing Body.* The Mayor and City Council, elected and constituted as herein set forth, shall be the governing body of the City. On behalf of the City, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.

"Sec. 2.2. *City Council; Terms of Office.* The City Council shall be composed of six members, each of whom shall be elected by the qualified voters of the

City to serve for a term of two years in the manner provided by Article III of this Charter.

"Sec. 2.3. *Mayor, Term of Office.* The Mayor shall be elected by the qualified voters of the City to serve for a term of two years, in the manner provided by Article III of this Charter. He shall preside at meetings of the City Council, but he shall vote only when there is an equal division upon any question before the Council. He shall vote in no other case except where otherwise authorized by law, and may not vote to break a tie vote in which he participated.

"Sec. 2.4. *Mayor Pro Tempore.* In accordance with State law, the City Council shall appoint one of its number mayor pro tempore to exercise the functions of Mayor whenever the Mayor is absent or unable for any reason to discharge the duties of his office.

"Sec. 2.5. *Vacancies.* If any vacancy should occur in the office of Mayor or councilman in the City, the City Council, before filling the vacancy, shall give public notice of the same in some newspaper published in the City at least 15 days before the date fixed for the filling of such vacancy. After giving this notice, the Council may then proceed to fill the vacancy in accordance with State law.

"Sec. 2.6. *Organizational, Regular, and Special Meetings.* The City Council shall hold organizational meetings, regular meetings, and special meetings, in accordance with State law; provided, however, that prior to the final adoption of any ordinance establishing the time and place for such regular meetings, notice thereof shall be published in a newspaper having a general circulation throughout the City. This notice shall be so published at least once, not more than 30 days nor less than 10 days prior to the introduction and first reading of any such ordinance.

"ARTICLE III.

"ELECTIONS.

"Chapter 1. Regular City Elections.

"Sec. 3.1. *Method of Election.* Regular municipal elections shall be held in the City biennially in odd-numbered years, and shall be conducted in accordance with State law governing municipal elections. The Mayor and members of the City Council shall be elected by the nonpartisan election and runoff election method.

"Sec. 3.2. *Election of the Mayor, Term of Office.* At each regular municipal election in the City, a Mayor shall be elected for a term of two years by and from the qualified voters of the City voting at large.

"Sec. 3.3. *Election of the City Council; Terms of Office.* At each regular municipal election in the City, there shall be elected six members to the City Council, one Council member from each of the six wards established pursuant to Section 3.4, to serve for terms of two years each. Every person elected to the City Council and every candidate for the City Council shall reside in the ward which he represents or seeks to represent, but all candidates shall be voted upon and elected by all the qualified voters of the City.

"Sec. 3.4. *Wards and Ward Boundaries.* The City shall be divided into six wards as follows:

WARD ONE: Beginning at the intersection of the centerline of East Broad Street with the centerline of Bost Street; thence with the centerline of East Broad Street in an easterly direction to the city limits; thence with the city limits in a northerly and westerly direction to the centerline of Radio Road;

thence with the centerline of Radio Road in a southerly direction to its intersection with the centerline of Bost Street; thence with the centerline of Bost Street in a southerly direction to the beginning.

WARD TWO: Beginning at the intersection of the centerline of Broad Street with the centerline of Center Street; thence with the centerline of South Center Street in a southerly direction to the main line of the Southern Railway; thence with the main line of the Southern Railway in a easterly direction to the city limits; thence with the city limits in a northerly and easterly direction to the centerline of East Broad Street; thence with the centerline of East Broad Street in a westerly direction to the beginning.

WARD THREE: Beginning at the intersection of the centerline of Broad Street with the centerline of Center Street; thence with the existing and projected centerline of South Center Street in a southerly direction to the main line of the Southern Railway; thence with the main line of the Southern Railway in a westerly direction to a point, said point being the intersection of the projected centerline of Seventh Street and the main line of the Southern Railway; thence with the projected and existing centerline of Seventh Street in a southerly direction to the centerline of Fayetteville Avenue; thence with the centerline of Fayetteville Avenue in an easterly direction to the center line of Boulevard (Sixth Street); thence with the centerline of Boulevard (Sixth Street) in a southerly direction to the city limits; thence with the city limits in a northwesterly direction to the centerline of Bristol Road; thence with the centerline of Bristol Road in an easterly direction to its eastern terminus; thence with the projected centerline of Bristol Road diagonally across Industrial Boulevard to the existing centerline of Bristol Road at its western terminus; thence with the centerline of Bristol Road in an easterly direction to the centerline of West Front Street; thence with the centerline of West Front Street in an easterly direction to the centerline of Buena Vista Street; thence with the centerline of Buena Vista Street in a northerly direction to the centerline of Cherry Street; thence with the centerline of Cherry Street in an easterly direction to its eastern terminus; thence with the projected centerline of Cherry Street across the Mitchell Community College campus to the centerline of West Broad Street at its western terminus; thence with the centerline of West Broad Street in an easterly direction to the beginning.

WARD FOUR: Beginning at the intersection of the centerline of Broad Street with the centerline of Center Street; thence with the centerline of West Broad Street in a westerly direction to its western terminus; thence with the projected centerline of West Broad Street across the Mitchell Community College campus to the centerline of Cherry Street at its eastern terminus; thence with the centerline of Cherry Street in a westerly direction to the centerline of North Race Street; thence with the centerline of North Race Street in a northerly direction to the centerline of North Center Street; thence with the centerline of North Center Street in a northerly direction to the city limits; thence with the city limits in an easterly direction to the centerline of Radio Road; thence with the centerline of Radio Road in a southerly direction to the centerline of Bost Street; thence with the centerline of Bost Street in a southerly direction to the centerline of East Broad Street; thence with the centerline of East Broad Street in a westerly direction to the beginning.

WARD FIVE: Beginning at the intersection of the centerline of Cherry Street with the centerline of North Race Street; thence with the centerline of Cherry

Street in a westerly direction to the centerline of Buena Vista Street; thence with the centerline of Buena Vista Street in a southerly direction to the centerline of West Front Street; thence with the centerline of West Front Street in a westerly direction to the centerline of Bristol Road at its western terminus; thence with the projected centerline of Bristol Road diagonally across Industrial Boulevard in a westerly direction to the existing centerline of Bristol Road at its eastern terminus; thence with the centerline of Bristol Road in a westerly direction to the city limits; thence with the city limits in a northerly and easterly direction to the centerline of North Center Street; thence with the centerline of North Center Street in a southerly direction to the centerline of North Race Street; thence with the centerline of North Race Street in a southerly direction to the beginning.

WARD SIX: Beginning at the intersection of the projected centerline of South Center Street and the main line of the Southern Railway; thence with the main line of the Southern Railway in a westerly direction to a point, said point being the intersection of the projected centerline of Seventh Street with the main line of the Southern Railway; thence with the projected and the existing centerline of Seventh Street in a southerly direction to the centerline of Fayetteville Avenue; thence with the centerline of Fayetteville Avenue in an easterly direction to the centerline of Boulevard (Sixth Street); thence with the centerline of Boulevard (Sixth Street) in a southerly direction to the city limits; thence with the city limits in a northeasterly direction to its intersection with the main line of the Southern Railway; thence with the main line of the Southern Railway in a westerly direction to the beginning.

"Sec. 3.5. *Special City Election.* In the event that the voters of the City of Statesville in the special election to be held on June 28, 1977 approve a change in the mode of the election of the City Council to that specified in North Carolina General Statutes 160A-101 (6) (b), then this Charter shall be deemed amended so that thereafter the election of the City Council shall be conducted in accordance with the results of such election.

(Sections 3.6. through 3.10. reserved.)

"Chapter 2. Recall of Elected Officials.

"Sec. 3.11. *Removal of Officeholders.* The holder of any elective office serving in the municipal government of the City may be removed at any time by the electors qualified to vote for a successor of such incumbent.

"Sec. 3.12. *Procedure.* (a) A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five per centum (25%) of the registered and qualified voters of the City, demanding an election of a successor of the person sought to be removed, shall be filed with the City Clerk. The petition shall contain a general statement of the ground for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his or her signature his or her place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true, as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(b) Within 10 days from the date of filing of such petition, the City Clerk shall examine and from the voters' register ascertain whether or not the petition is signed by the requisite number of qualified electors, and he shall

attach to the petition his certificate, showing the results of such examination. If by the Clerk's certificate it is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Clerk shall, within 10 days after such amendment, make a like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the Clerk shall submit the same to the City Council without delay.

(c) If the petition shall be found to be sufficient, the City Council shall order and fix a date for holding a primary election, in accordance with State law governing special elections. If in the primary election any candidate receives a majority of all the votes cast, he shall be declared to be elected to fill out the remainder of the term of the officer who is sought to be recalled. If there be more than two candidates in such primary and no one receives a majority of all the votes cast therein, then the Council shall call another election, to be held in accordance with State law governing special elections, at which election the two candidates receiving the highest vote in the primary shall be voted upon. Insofar as possible, the laws, rules and procedures governing the conduct of regular municipal elections shall apply to any election called pursuant to this section.

"Sec. 3.13. *Successor in Office.* The successor of any officer so removed shall hold office during the unexpired term of his or her predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he or she requests otherwise in writing, the Clerk shall place his or her name on the official ballot without nomination. At such election, if some person other than the incumbent is elected the incumbent shall thereupon be deemed removed from the office upon qualification of his or her successor. If the incumbent received a majority of the votes in the primary election, he or she shall continue in office.

"Sec. 3.14. *Failure to Qualify.* In case the person elected should fail to qualify within 10 days after receiving notification of election, the office shall be deemed vacant. In that event, the unexpired term shall be filled by appointment by the City Council, but the person removed shall not be eligible for appointment. The person so appointed by the Council shall be subject to recall as other members of Council.

"Sec. 3.15. *Right of Recall Continued.* Such method of removal shall be cumulative and additional to any other method provided by law. In the event any officer is recalled and any person is elected as his successor, the right of recall of such successor so elected shall be as in the case of an officer originally elected.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Chapter 1. City Manager.

"Sec. 4.1. *Council-Manager Form of Government.* The City shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7, Chapter 160A of the General Statutes.

"Sec. 4.2. *Appointment; Qualifications; Compensation.* The City Council shall appoint a City Manager, and he shall serve at the pleasure of the Council. The Manager shall be chosen on the basis of his executive and administrative qualifications, with special reference to his actual experience in or his

knowledge of accepted practice with respect to the duties of a City Manager. At the time of his appointment, the Manager need not be a resident of the City or the State, but during his tenure of office he shall reside within the City. The Manager shall receive such salary as the Council may establish.

"Sec. 4.3. *Powers and Duties.* The City Manager shall be the administrative head of the City government, and shall be responsible to the City Council for the proper administration of all affairs of the City. Except as otherwise provided by this Charter, he shall have all the powers and duties assigned or delegated to a City Manager by State law. The City Manager shall also perform such other duties as are prescribed for him by the Council.

(Sections 4.4. through 4.10. reserved.)

"Chapter 2. City Attorney.

"Sec. 4.11. *Appointment; Qualifications; Compensation.* (a) The City Council shall appoint a City Attorney to be its legal advisor, and he shall serve at the pleasure of the Council. The City Attorney shall be an attorney-at-law licensed to practice in this State. He shall receive such compensation as the Council may establish.

(b) The City Council may also employ such other attorneys as it deems advisable in order to provide proper legal advice and assistance to the City.

"Sec. 4.12. *Duties.* The City Attorney shall be the principal legal advisor to the City, and shall perform whatever duties are prescribed for him by the City Council.

(Sections 4.13. through 4.20. reserved.)

"Chapter 3. Other Administrative Officers and Employees.

"Sec. 4.21. *City Clerk and Deputy City Clerk.* (a) The City Council shall appoint a City Clerk and may appoint a Deputy City Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the Council or City Manager may direct.

(b) The City Council may combine the position of the City Clerk with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"Sec. 4.22. *Tax Collector.* (a) The City Council shall appoint a Tax Collector and may appoint a Deputy Tax Collector to collect all taxes, licenses, fees, and other moneys due the City, subject to the provisions of State law and ordinances of the City. The Tax Collector shall diligently comply with and enforce all the general laws of North Carolina relating to the collection of taxes by municipalities, and shall perform such other duties as the Council may direct.

(b) The City Council may combine the position of Tax Collector with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"Sec. 4.23. *City Treasurer.* (a) The City Council shall appoint a Treasurer and may appoint a Deputy Treasurer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as the Council may direct.

(b) The City Council may combine the position of the City Treasurer with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"ARTICLE V

"CIVIL SERVICE BOARD.

"Sec. 5.1. *Members; Term of Office.* The Civil Service Board of the City, hereinafter referred to as the 'Board', shall consist of five members. Terms shall begin on the first day of July and expire on the last day of June.

The present members of the Board shall continue to serve until their present terms expire. That person appointed to fill the first term expiring shall be appointed to a three-year term. Of those appointed to the next three terms expiring, one shall serve a one-year term, one shall serve a two-year term, and one shall serve a three-year term. That person appointed to fill the last present term expiring shall serve a three-year term. These staggered terms are to ensure that a majority of the terms shall not expire during the same year. After the expiration of the term of these appointments, all appointments shall be for a three-year term.

"Sec. 5.2. *Appointment of Members; Vacancies; Reappointments.* All members of the Board shall be appointed by the senior Resident Judge of the Superior Court of the Judicial District of which Iredell County is a part. Vacancies on the Board shall be filled by appointment in the same manner, and any member appointed to fill a vacancy shall serve the remainder of the unexpired term. No member of the Board, after having served a full two or three-year term, shall be eligible for reappointment to the next succeeding term.

"Sec. 5.3. *Qualifications; Removal From Office.* Any person, other than a member of the City Council, an elective officer, a member or employee of the police or fire department, or an employee of the City, who is a qualified voter in the municipal elections in the City, shall be eligible for membership on the Board; provided that at least two members shall be of a political party different from that of the majority of the Board. Each member of the Board shall take an oath (or affirmation) for the faithful discharge of the duties of his office. The members of the Board shall be subject to removal from office by the senior Resident Superior Court Judge for any cause which, in his discretion, makes such removal in the best interests of the public.

"Sec. 5.4. *Election of Officers; Duties; Records Open to Public.* The Board shall elect from its membership a chairman and a secretary for a term of one year. The chairman shall preside at all meetings of the Board. The secretary shall keep the minutes of the proceedings of the Board and shall be the custodian of all papers and records pertaining to the business of the Board, and shall perform such other duties as the Board may direct. All of the records of the Board shall be open to public inspection, during normal business hours at their place of keeping, except where otherwise prohibited by law.

"Sec. 5.5. *Powers and Duties.* The Board shall establish and fix requirements of applicants for employment in the police department and the fire department of the City, not contrary to State law. These requirements shall be printed and made available for public inspection and for the use of the employees of and applicants for employment in such departments.

"Sec. 5.6. *Compensation.* The members of the Board shall receive as compensation for each meeting the sum of fifteen dollars ($15.00).

"Sec. 5.7. *Rooms and Clerical Help.* The City shall provide suitable rooms for the Board and shall provide all necessary clerical and stenographic help and all stationery, forms, and other supplies needed by the Board, and shall allow such reasonable use of the facilities of the City for the holding of examinations, and such other use as may be necessary for the proper conduct of its affairs.

"Sec. 5.8. *Examination of Applicants.* All applicants for sworn positions in the police department and qualified firefighters in the fire department of the City shall be subject to an examination by the Board, which examination shall be competitive and open to all persons, subject to a reasonable limitation as to age, health, moral character and general reputation. The examination shall relate to those matters which will fairly test the relative ability of the person examined to discharge in a proper fashion the duties of the position which he seeks to be appointed to, and shall include tests of physical, mental, and moral qualifications, but no applicant shall be examined concerning his political opinions or affiliations. Due regard shall be given by the Board in its examination of applicants for positions in the police department and fire department to the experience or training of any applicant which may qualify him for the duties which he would be called upon to discharge as a member of either department.

"Sec. 5.9. *Notice of Examinations.* Notice of the time and place of every examination shall be given by the Board by advertisement in some newspaper published in the City.

"Sec. 5.10. *Eligibility List; Appointments.* The Board shall prepare and keep an eligibility list of persons successfully passing its examinations for the positions of patrolmen and firefighters. Each person shall be graded according to his respective showing upon such examinations, and the Board shall make appointments to vacancies, which occur in the departments, on a basis of the grades made by the various applicants upon the examinations so given. All examinations given by the Board shall be made under the rules and regulations established by the Board.

All names which remain on the eligibility list for a period of two years shall be stricken therefrom; provided, however, any person who becomes eligible for appointment to either the police department or fire department, and is given proper notification that a vacancy exists, shall have seven days to accept or reject the appointment and if he rejects same, his name shall be removed immediately from the eligibility list.

"Sec. 5.11. *Appointment of Policemen and Firemen; Responsible to Mayor and Council.* The Chiefs and members of the Police and Fire Departments shall be appointed by a majority vote of the Board.

The Chiefs and members of the Police and Fire Departments shall be under the direction and control of, and shall be directly responsible to, the Mayor and City Council or, upon proper delegation, to the City Manager.

"Sec. 5.12. *Promotions.* All promotions shall be by competitive examination within the departments and shall be made by the respective chiefs, with the approval of the Board.

"Sec. 5.13. *Acting Chiefs.* Notwithstanding any other section to the contrary, if a vacancy occurs in the position of Chief and a new Chief is not immediately appointed, an acting Chief shall be appointed by the City Manager from within the department. The acting Chief shall have all the powers, duties and responsibilities as does the Chief. The acting Chief may be removed from office at any time by the City Manager, in which case he shall be restored to his former position.

"Sec. 5.14. *Suspension of Fire and Police Chiefs.* The Mayor and City Council or, upon proper delegation, the City Manager shall have the authority to

suspend, demote, or terminate from employment the Chiefs of the fire and police departments.

The Board may hear appeals submitted by the Chiefs of the police and fire departments relative to any suspension, demotion, or termination. The Board shall submit a written statement of findings of fact and recommendations to the proper authority. When the Board finds the action appealed has been the result of political, religious, or racial prejudice, age or sex discrimination, or for any cause unrelated to job performance, the Chief shall be reinstated to his position, subject to the City's right to appeal to the Superior Court.

"Sec. 5.15. *Suspensions; Demotions; Terminations.* The Chief of the police or fire department may suspend, demote, or terminate from employment any member of their respective departments for the infraction of any departmental rules and regulations. The Chief may also suspend a departmental employee during the investigation, hearing, or trial of said employee on any criminal charge, when suspension would be in the best interest of the department; where the suspension is terminated by full reinstatement of the employee, back pay shall be recoverable. Suspensions for an infraction of departmental rules and regulations of more than 15 days at any one time, or one which would make the total number of days suspended exceed 25 during any six-month period; demotions in rank and terminations may be appealed to the Board, upon written request filed with the respective Chief within three days of notification of the disciplinary action taken. The rules and regulations of each department may provide for appeals in the case of all suspensions for infractions of departmental rules and regulations; the Board shall have the power to hear such appeals. Upon notification of an appeal, the Board may make such investigation as it may direct and shall hold a hearing at which the accused shall be given an opportunity to be heard and present evidence in his own behalf. The Board shall have power to subpoena witnesses and compel testimony.

The Board shall have the authority to suspend, demote in rank, or terminate from employment any employee who has appealed. The Board shall sustain the disciplinary action imposed by the Chief or vacate the same or impose such disciplinary action as it may determine.

Notwithstanding any provisions to the contrary herein, a probationary employee of either department may be summarily discharged by the Chief of that department with no right to appeal to the Board.

Decisions regarding disciplinary actions made by the Chiefs, where no right to appeal exists, and all decisions of the Board under this section, shall be final and not subject to judicial review.

This section shall not apply to terminations due to a reduction in personnel.

"Sec. 5.16. *Political Activity.* No member or employee of the police department or the fire department shall contribute to or take part in any manner, directly or indirectly, in any election or function involving the election of a candidate for municipal office, other than casting his secret ballot.

No employee of the police department or the fire department shall seek a political office while employed as a member of either department, and shall not be granted a leave of absence prior to offering for election. Such employee shall automatically be dropped from the payroll of the City on the date the filing fee is paid to the Election Board.

"ARTICLE VI.

"ALCOHOLIC BEVERAGE CONTROL BOARD.

"Sec. 6.1. *Membership; Terms of Office; Appointment; Vacancies.* The City of Statesville Board of Alcoholic Control shall consist of a chairman and two other members, all of whom shall be residents of the City and well known for their character, ability and business acumen. The chairman and two other members of the Board shall serve for terms of three years each on a staggered basis, with the term of one member expiring each year. All appointments to the Board, including appointments to fill vacancies, shall be made by the Mayor and City Council of Statesville. Any person appointed to fill a vacancy on the Board shall serve for the remainder of the unexpired term. The present members of the Board shall be exempt from the residency requirement of this section.

"Sec. 6.2. *Powers and Duties.* The Board shall have all the powers and duties imposed by State law on county boards of alcoholic control, shall be subject to the authority of the State Board of Alcoholic Control to the same extent as are county boards of alcoholic control, and shall operate all city alcoholic beverage control stores in accordance with State laws regulating the operation of county alcoholic beverage control stores.

"Sec. 6.3. *Distribution of Net Profits.* After deducting from the proceeds of sales the salaries, expenses, and working capital as provided in G.S. 18A-18, and the amount for law enforcement, education, and rehabilitation as provided in G.S. 18A-17(14), the net profits derived from the operation of liquor stores in the City shall be distributed quarterly as follows:

(1) Twenty-five percent (25%) shall be turned over to the Board of Trustees of Mitchell Community College to be used to retire the outstanding library debt, for land acquisitions and capital improvements, as the needs arise.

(2) Twenty-five percent (25%) shall be turned over to the Board of Education of the City of Statesville.

(3) Ten percent (10%) shall be turned over to the Statesville Arts and Science Museum.

(4) The remaining forty percent (40%) shall be turned over to the city council to be used in its discretion.

(5) Mitchell Community College, the Board of Education and the Arts and Science Museum shall submit to the City Council annually line item budgets showing how these funds are to be used.

"ARTICLE VII.

"FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

"Sec. 7.1. *Supplemental Retirement Fund Created.* The Board of Trustees of the Local Firemen's Relief Fund of the City of Statesville, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Statesville Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund separate from the books of account of the Firemen's Local Relief Fund of the City, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this Article.

"Sec. 7.2. *Transfers of Funds and Disbursements.* Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City shall:

(a) at any time when the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7, be less than thirty thousand

dollars ($30,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of thirty thousand dollars ($30,000);

(b) as soon as practical after January 1, of each year, but in no event later than July 1, divide the sum of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, the income earned in the preceding calendar year upon investment of funds belonging to the Local Relief Fund and the funds belonging to the Supplemental Retirement Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 7.3 of this Article.

"Sec. 7.3. *Supplemental Retirement Benefits.* (a) Each City fireman, whether fully paid or volunteer, who has previously retired with 20 years or more service as a City fireman and has attained the age of 55 years, shall be entitled to and shall receive in each calendar year following the calendar year in which he retires an annual supplemental retirement benefit; provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars ($600.00).

(b) Any fireman of the City who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

(1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the City a position of employment the normal duties of which he was capable of performing; and

(4) that, since the preceding January 1, a physician licensed to practice medicine in North Carolina has certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; provided, that the Board of Trustees, after initially making the findings of fact specified in (1) and (2) of this subsection, need not specify such findings in subsequent calendar years.

"Sec. 7.4. *Intention.* It is the intention of Sections 7.1, 7.2, and 7.3 of this Article to authorize in any calendar year the disbursement of supplemental retirement benefits only when the Firemen's Relief Fund of the City equals or exceeds thirty thousand dollars ($30,000).

"Sec. 7.5. *Investment of Funds.* The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-30; and only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

"Sec. 7.6. *Acceptance of Gifts.* The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

"Sec. 7.7. *Bond of Treasurer.* The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums of the bond of the Treasurer.

"ARTICLE VIII.

"ASSESSMENTS FOR STREET AND SIDEWALK IMPROVEMENTS.

"Sec. 8.1. *Assessments for Improvements.* The City Council shall have full power and authority to adopt by ordinance such a system of laying out districts or sections of streets, together with curbs and gutters, drainage conduits and drainage structures and sidewalks for permanent improvements, and of equalizing assessments on real estate to pay the cost of such improvements as may be just and proper. In order to more fully carry out the duties imposed by the provisions of this Article for more permanent improvement of all streets together with curbs and gutters, drainage conduits and drainage structures and all sidewalks abutting thereon, the Council shall have the power to pass an ordinance assessing against the property owners on each side of the street one-fourth of the cost of paving or repaving any such street together with one-fourth of the cost of the curbs and gutters on either side of such street, including drainage conduits and drainage structures constructed or reconstructed, and one-half of the cost of paving or repaving the sidewalk adjoining on the real estate abutting on one side of the street, or portion thereof so laid out and improved, together with one-half of the cost of paving or repaving the sidewalk adjoining on the real estate abutting on the other side of such street, or portion thereof so laid out and improved. It shall be incumbent on the owners of the real estate on each side of the street, or part thereof, so laid out and improved, to pay the amounts so assessed for such improvements, and the amounts charged against each land owner shall be assessed on and shall constitute a lien on the lot or lots of such land owners abutting on the street; provided, that the city shall pay for the remainder of the cost and for all street intersections so improved.

"Sec. 8.2. *Equalization of Assessments.* In order to equalize the assessments on real estate for the purpose of improving the streets and sidewalks as hereinbefore provided the City Council shall take the total cost of paving or repaving, together with the total cost of constructing curbs and gutters, drainage conduits and drainage structures throughout the entire length of such work within each district, and shall then prorate the cost thereof on the real estate abutting thereon in proportion to the frontage on the street or sidewalk or portion thereof so improved, and charge to and assess upon the real estate upon each side of the street upon which the work is done its pro rata share of the cost of such improvement made. Immediately upon the completion of the work upon any street or sidewalk ordered done by the Council under the provisions of this Article the person in charge of the work shall make a report in writing to the Council showing the cost of paving or repaving, together with the total cost of constructing or reconstructing curbs and gutters, drainage conduits and drainage structures throughout the entire length of the work, with the number of feet

frontage of each of such lots. The Council, after receipt of this report, shall cause notice of the assessments against abutting property on any street or sidewalk in any improvement district or section to be advertised at least once a week for two consecutive weeks, which notice shall be deemed to be full and sufficient notice to all property owners abutting on the street or sidewalk. This notice shall state the time and place when and where such assessments are to be made and determined, and shall notify all persons interested to appear and show cause, if any, why such assessment shall not be made. At such time and place the Council shall proceed to prorate the costs of the work and assess the property as above provided; provided, however, that no assessment against any piece of property improved as herein allowed shall exceed in amount the enhancement in value of the property by reason of such improvement.

"Sec. 8.3. *Assessment Lien; Payment; Foreclosure.* The amount of charges made against the landowners and assessed on the respective lots as hereinbefore provided shall be and constitute liens and the respective lots upon which they are charged and assessed. These amounts shall be placed in the hands of the tax collector for collection and any property owner shall have the right to pay the charges made as hereinbefore prescribed in ten equal annual installments from and after the adoption of the assessment ordinance, with interest thereon at eight percent (8%) per annum from the date that such assessment was made, in which case the amounts due shall be and remain a lien on the lot or lots against which they are charged and assessed until fully paid. Any property owner may elect to pay such assessment in cash without interest, if same be done within 30 days from and after the date that the Council shall make the assessment. In case there shall be a default in the payment of any annual installment for 30 days after the same shall become due, then and in that event the installments remaining, if any, shall become due and the tax collector may proceed to sell such lot or lots for cash to the highest bidder at the courthouse door of Iredell County, after advertisement for 30 days in some newspaper published in the City, and the tax collector shall make a deed to the purchaser and out of the moneys arising from this sale pay off and discharge the amount charged and assessed on such lot or lots, together with the interest on the same and the cost of sale, and pay the surplus, if any, to the person or persons legally entitled to the same.

"Sec. 8.4. *Lien Book; Open to Public.* For the convenience of the public the Tax Collector shall keep in his office a lien book, in which shall be entered the location of the lots and street number, if known, upon which assessments have been made, the name or names of the reputed owners thereof, and the amount due on such assessments. This book shall be indexed and shall be open for public inspection.

"Sec. 8.5. *Appeals From Assessments.* Any person who shall feel aggrieved by the assessments made by the City Council as herein provided, shall have the right within 30 days after the assessments are made, and not after that time, to file his objection to the assessments, and to appeal from the decision of the Council to the next term of the Superior Court of Iredell County, by serving upon the City notice in writing of his intention to do so, specifying in the notice the grounds of his objections to the findings, and by filing within such time with the Clerk of the Superior Court of Iredell County a written undertaking in the sum of two hundred dollars ($200.00), with sufficient surety to be justified before and approved by the clerk, to the effect that the appellant will pay to the

City all such costs and damages as it may sustain by reason of the appeal. In the case of an appeal from the decision of the Council, the ordinance laying out the improvement district, the action of the Council in making or levying the assessment, and the objections of the property owner filed thereto, shall constitute the case on appeal. All of the papers shall be certified by the City Clerk to the Superior Court, and shall be docketed on the civil issue docket and stand at issue as other civil cases regularly brought in such court. If all issues be found in favor of the appellant on the appeal as above provided, the lien for assessments shall be discharged. If, however, the issues of any of them be found in favor of the City to any amount, the judgment shall be rendered in favor of the City for such amount, and the amount so found, together with the costs of the appeal (which costs shall be assessed as costs in other civil actions) shall be and continue a lien against the property upon which the original assessment was placed from the date of the commencement of the work or improvement. Upon such appeal from the decision of the Council, all sections and provisions of this Article shall be *prima facie* presumed to have been complied with.

"Sec. 8.6. *Definitions.* The word 'cost', whenever the same shall appear in this Article, shall be construed to mean the actual cost of the materials used in the work, together with all other costs incident to constructing the improvements, including the cost of all grading and excavation incident thereto. Any part of any lot in the City which abuts upon any street or sidewalk shall be construed to be 'frontage' within the meaning of this Article. The word 'street' or 'sidewalk' shall mean the entire area defined by the street or sidewalk rights-of-way and not just that portion of the rights-of-way upon which actual improvements have been constructed.

"ARTICLE IX.

"CONDEMNATION PROCEEDINGS.

"Sec. 9.1. *Power to Purchase and Condemn Land; Procedure for Condemnation.* When, in the opinion of the City Council, any land, right-of-way, privilege, or easement shall be required for the purpose of opening new streets or of extending or widening those already open, or for the extension and maintenance of the drainage, sewerage, or water systems of the City of Statesville or for the extension and maintenance of the light, distribution, or power system of the City, or for any other public purpose, the City may purchase the same from the owner or owners thereof and pay such compensation therefor as may be agreed upon; but if the City or the City Council shall be unable to agree with the owner or owners thereof upon the amount of compensation, condemnation of such land, right-of-way, privilege, or easement therein for such public use may be made in the manner hereinafter set forth.

"Sec. 9.2. *Proposed Condemnation; Order of the City Council.* When it is proposed to condemn any land, rights, privileges, or easements for the purpose herein specified, an order or resolution of the City Council at a regular or special meeting of the City Council shall be made, stating generally, or as near as may be, the nature of the improvements for which the land, rights, privileges, or easements are required.

"Sec. 9.3. *Petition to be Filed with Clerk of Superior Court.* The City shall file with the Clerk of the Superior Court of Iredell County its verified petition praying for the appointment of commissioners to appraise and value the real property or rights, privileges, or easements proposed to be taken or condemned

for the purpose aforesaid, and to ascertain and report to the court what sum should be paid to the owner or owners as damages for the property, rights, privileges, or easements so taken, the assessments to be made by the commissioners according to the value of the property, rights, privileges, or easements to be acquired for public use. The petition shall set forth and describe the particular property rights, privileges, or easements proposed to be taken or condemned for the purpose aforesaid, and shall also state the names and residences of the owner or owners thereof and of the person who may have any interest therein, which may be affected by the condemnation, and whether any of the owners are minors, with or without guardians.

"Sec. 9.4. *Summons to Parties Interested; Proceedings.* Upon the filing of such a petition, the clerk of the superior court shall issue a summons to the parties interested in the lands, rights, privileges, or easements described in the petition, requiring them to appear at his office in the courthouse of the county ten days after the service of the summons, and answer or otherwise plead to the petition, and the proceedings shall be conducted in all respects as are other special proceedings, and the clerk may issue process and make publication for parties and appoint guardians in like manner as provided by law in the case of special proceedings.

"Sec. 9.5. *Appointment of Commissioners; Duties; Report; Exception to Report; Appeal.* If the clerk shall find that the property, rights, privileges, or easements described in the petition are required for public use, he shall make an order appointing three disinterested and competent freeholders of Iredell County to ascertain and assess the value of the property, rights, privileges, or easements proposed to be taken and the damages to be paid to the owner or owners thereof by the City. The clerk shall issue a notice of their appointment to the freeholders, to be served upon them by the sheriff of the county, and when so notified they shall, within five days, go upon the premises and ascertain the value of the lands, rights, privileges, or easements proposed to be taken or condemned for the public use, determine by a majority vote the amount of damages to be paid for the same, and make a report of their finding in writing to the Clerk of the Superior Court of Iredell County, within five days after they view the premises. Before making such report they may take the evidence of witnesses offered as to any values to be assessed; that if any party to the proceedings shall be dissatisfied with the report of the commissioners, he may file exceptions thereto with the clerk of the superior court within ten days after the filing of the report with the clerk; and all issues of fact and law raised before the clerk in such proceedings and upon such exceptions shall be transferred to the superior court for trial in like manner as provided in the case of other precedence over all other civil cases or matters on the docket of the court. If the City, at the time of the appraisal, shall pay into court the sum appraised by the commissioners, then and in that event the City may enter, take possession of, and hold such lands, notwithstanding the pendency of the appeal, and until the final judgment rendered on the appeal. From the judgment of the superior court rendered in such proceedings any of the parties may appeal to the Court of Appeals; provided, however, that no appeal shall hinder or delay the City in opening such streets, in constructing such lines, or erecting such improvements.

"Sec. 9.6. *Considerations Governing Assessments.* In making the valuation and assessment aforesaid, the commissioners shall take into consideration the

loss or damage that may accrue to the owner or owners by reason of the land, right-of-way, privilege, or easement being surrendered, and also any benefit or advantage such owner may receive from the placing, maintaining, extending or constructing of the proposed improvements for which such land, right-of-way, privilege, or easement shall be required, and shall ascertain the amount of loss or damage in excess of the benefit or advantage, or the value or amount of such benefit or advantage in excess of loss or damage, as the case may be; that the value of any benefit or advantage to any lot or land arising from the placing, maintaining, extending, or constructing of the proposed improvements accruing to such lot or other land may be assessed by the commissioners against the lot or land and shall be a lien thereon.

"Sec. 9.7. *Powers of Court.* In all cases of appraisal under this Article where the mode or manner of the proceedings is not expressly or sufficiently provided for herein, the court before which such proceedings may be pending shall have the power to make all necessary orders and give proper directions to carry into effect the object and intent of this Article and the practice and procedure in such cases shall conform as near as may be to the ordinary practice and procedure in such court.

"Sec. 9.8. *Transfer of Ownership not to Delay Proceedings.* No change of ownership or transfer of the real estate or any interest therein or of the subject matter of the appraisal or any part thereof shall in any manner affect such proceedings after the same has been instituted, but the same may be carried on and perfected as if no conveyance or transfer had been made or attempted to be made.

"Sec. 9.9. *Defective Titles; New Proceedings to Perfect Title; Possession Bond.* If at any time after the attempt to acquire such property or rights by appraisal of damages or otherwise, it shall be found that the title to such property or rights proposed to be taken or condemned or which have been acquired and condemned, are defective, the City may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made; and at any stage of the new proceedings the court may authorize the petitioner, if in possession of the property or rights, to continue in possession of the same, and if not in the possession to take possession and use such property or rights during the pending and until the final conclusion of such new proceedings, upon such petitioner paying into court a sufficient sum or giving security as the court may direct for damage, which may be finally assessed and recovered against it.

"Sec. 9.10. *Right of City to Recover Payments on Defective Titles.* If the title to any property or rights, privileges, or easements condemned in any proceedings instituted under this Article shall prove defective, the City may by action recover of the party or person who has received the money or compensation for the property, rights, privileges, or easements so condemned any loss or damage it may have sustained by reason of such defect of title, not exceeding the amount so paid as compensation.

"Sec. 9.11. *Service of Summons.* The summons in the proceedings begun hereunder shall be served in the same manner and way as is provided for the service of summons in special proceedings.

"Sec. 9.12. *Title to Vest in City.* The title to any real estate, rights, privileges, or easements which have been condemned under the provisions of this Article shall vest in the City upon its paying into court, or to the parties entitled to receive same, the amount of compensation or damages recovered against it,

together with the costs adjudged to be paid by it in such proceedings and upon its further compliance with the judgment of the court.

"Sec. 9.13. *Power of Eminent Domain.* (a) The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the City in the case of acquisition of lands, easements, privileges, rights-of-way, and other interests in real property for sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The City, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System; provided, however, that the provisions of this subsection shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the City, or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

(b) The authority conferred upon the City in subsection (a) shall only be exercised when the City is seeking to acquire land, easements, privileges, rights-of-way, or other interests in real property located in and outside the corporate limits of the City.

"ARTICLE X.

"SPECIAL PROVISIONS.

"Sec. 10.1. *Ad Valorem Taxes; Disposition.* The collection hereafter made of all ad valorem taxes levied by the City Council of the City of Statesville, which at the beginning of any fiscal year were due and payable two years or more prior to the beginning of the fiscal year, shall accrue to the benefit of, and be deposited in the General Fund of the City of Statesville.

"Sec. 10.2. *Funds for Sheltered Workshops.* The City Council, in its discretion, may appropriate funds, other than property tax funds, for the use of the Iredell Vocational Workshop, Inc.

"Sec. 10.3. *Authority to Sell Power Lines and Rights-of-Way.* The City-owned electric enterprise shall not be sold, leased to another, or discontinued without compliance with State law, provided that the City Council shall have the power to sell, purchase or trade, at private or public sale, either at a negotiated price or upon sealed bids, any power lines and rights-of-way owned by the City or by others lying inside or outside the corporate limits of the City for cash or in exchange for privately or publicly owned lines located within or without the corporate limits of the City.

Any cash proceeds or exchanged power lines shall be used by the City in its discretion in the operation of its electrical distribution system; provided, that the Council shall have first determined by resolution that such power lines and rights-of-way are not needed to serve the residents of the City and that it would be in the best interest of the City to so buy, sell or exchange such lines and rights-of-way, and that same will not adversely affect any bonded indebtedness of the City concerning the operation of the electrical distribution system.

"Sec. 10.4. *Passage of Ordinances.* No ordinance shall be passed by the City Council upon the date of its introduction, except in the case of a public emergency. In the case of a public emergency, an ordinance may be adopted on the date of its introduction if it is adopted by a two-thirds vote of all Council members present and voting.

All other ordinances shall be introduced at a regular meeting, and shall stand for passage at the next regular meeting of Council, except as otherwise provided by State law.

"Sec. 10.5. *Incorporation by Reference.* (a) The City Council is hereby authorized to adopt by reference the provisions of any code or public record, as herein defined, or portions thereof, without setting forth the provisions of such code or public record in full, and the contents of any map or plat; provided that official copies of all codes, public records, maps, and plats, as are adopted by reference, shall be maintained for public inspection in the office of the City Clerk.

(b) As used in this section, the following terms shall have the meanings indicated as follows, unless the context otherwise requires:

(1) 'Code' shall mean and include any published compilation of rules and regulations which have been prepared by various technical trade associations, agencies or departments of the State of North Carolina, and shall include specifically, but shall not be limited to, building codes; plumbing codes; electrical wiring codes; fire prevention codes; traffic codes; inflammable liquids codes; gas codes; heat and air conditioning codes; together with any other code which embraces rules and regulations pertinent to a subject which is a proper municipal legislative matter;

(2) 'Public Records' shall mean and include any municipal, State or federal statute, rule or regulation adopted prior to the exercise by the City of the authority to incorporate by reference herein granted; provided, however, that this definition shall not include the municipal ordinances, rules and regulations of any municipality except those of the City of Statesville nor shall this definition include the State laws, rules and regulations of any other than the State of North Carolina;

(3) 'Map' or 'Plat' shall mean any map or plat recorded in the office of the Register of Deeds of Iredell County, North Carolina, or on file in the office of the City Clerk of the City of Statesville, North Carolina;

(4) 'Published' shall mean printed, lithographed, multigraphed, mimeographed, or otherwise reproduced.

(c) Any amendment which may be made to any code, public record, map, or plat incorporated by reference by the City Council hereunder may be likewise adopted by reference; provided, that such amendment adopted by reference shall be maintained for public inspection in the office of the City Clerk.

"Sec. 10.6. *No Levy on City Property or for City Debts.* No levy shall be made on any property belonging to the City, nor shall any levy be made on the property of any individual for any debt due by the City, but all such debts shall be paid only by taxation upon subjects taxed by the City."

Sec. 2. The purpose of this act is to revise the Charter of the City of Statesville and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act,

so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Statesville.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Session Laws of 1959, Chapter 667
Session Laws of 1961, Chapter 887
Session Laws of 1959, Chapter 1052
Session Laws of 1963, Chapter 719
Session Laws of 1963, Chapter 1055
Session Laws of 1965, Chapter 534
Session Laws of 1965, Chapter 738
Session Laws of 1965, Chapter 775
Session Laws of 1965, Chapter 788
Session Laws of 1967, Chapter 757
Session Laws of 1969, Chapter 447
Session Laws of 1969, Chapter 471
Session Laws of 1971, Chapter 664
Session Laws of 1973, Chapter 214
Session Laws of 1973, Chapter 418
Session Laws of 1973, Chapter 509
Session Laws of 1975, Chapter 30

Sec. 5. The City of Statesville shall continue to be exempt from the application of Section 4, Session Laws of 1963, Chapter 1058.

Sec. 6. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 7. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 8. (a) All existing ordinances and resolutions of the City of Statesville and all existing rules or regulations of departments or agencies of the City of Statesville, not inconsistent with the provisions of this act, shall continue in full force or effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Statesville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 304 CHAPTER 290

AN ACT TO AMEND G.S. 1A-1, RULE 41(d), TO PROVIDE THAT THE TRIAL JUDGE SHALL STAY PROCEEDINGS OF REVIVED LAWSUITS IN WHICH COSTS HAVE NOT BEEN PAID UNTIL SUCH COSTS ARE PAID.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 41(d), as it appears in the 1969 Replacement of Volume 1A, is amended by rewriting the second sentence and by adding another sentence to read as follows:

"If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant before the payment of the costs of the action previously dismissed, unless such previous action was brought in forma pauperis, the court, upon motion of the defendant, shall make an order for the payment of such costs by the plaintiff within 30 days and shall stay the proceedings in the action until the plaintiff has complied with the order. If the plaintiff does not comply with the order, the court shall dismiss the action."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 318

CHAPTER 291

AN ACT TO AMEND CHAPTER 929 OF THE 1975 SESSION LAWS RELATING TO THE COMMITMENT OF NONCRIMINAL JUVENILE OFFENDERS TO JUVENILE INSTITUTIONS FOR DELINQUENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 929 of the 1975 Session Laws is amended on the second line by striking the year, "1977" and substituting therefor the year, "1978".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 364

CHAPTER 292

AN ACT TO AUTHORIZE ALAMANCE COUNTY BOARD OF EDUCATION TO DISPOSE OF CERTAIN LAND BY PRIVATE SALE, WHICH IS A PART OF THE ELON COLLEGE ELEMENTARY SCHOOL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Alamance County is hereby authorized to sell at private sale the following described property:

"That portion of Elon College Middle School property as owned by Alamance County Board of Education in Boone Station Township, Alamance County, North Carolina, in the Town of Elon College between Haggard Avenue (North Carolina Highway #100) and East Lebanon Avenue adjoining Antioch Avenue, College Avenue, Kerr Avenue and the lands of E. S. Lankford, Mrs. M. W. Hook and Boy Scout Hut, and bounded and described as follows:

Beginning at a point in the center of Antioch Avenue and 29 feet south of a corner in Haggard Avenue (this said point of beginning is located in control line back of south curb of Haggard Avenue) and running thence from said point of beginning and along the center line of Antioch Avenue south 2° 01' west 389 feet to a point in the center of the intersection of Antioch Avenue and East College Avenue; thence with the center of East College Avenue south 89° 00' east 427 feet to a point in the center of intersection of Kerr Avenue and East College Avenue; thence with the center of Kerr Avenue south 2° 51' west 420 feet to the northern margin of East Lebanon Avenue; thence with the said margin of East Lebanon Avenue in an easterly direction approximately 294 feet to a corner with E. S. Lankford in the said margin of East Lebanon Avenue; thence with the line of said Lankford north 2° 51' east approximately 390 feet to a corner in the line of said Lankford; thence in a northerly direction on a course approximately 2° 39' east and with the line of Mrs. M. W. Hook and Boy Scout Hut property approximately 421 feet to southern curb of Haggard Avenue; thence with southern curb of Haggard Avenue and in a westerly direction along the back of curb of Haggard Avenue approximately 726 feet to the point of beginning."

Sec. 2. The sale of the above described property shall be subject to the following terms and conditions:

(a) Sale shall be made for cash payable in full upon delivery of deed to purchaser with purchaser granting to Alamance County Board of Education, at time deed is delivered, lease and permission to occupy said property without

charge until Western Middle School property is completed and ready for occupancy.

(b) Report of sale of such property shall be filed with the secretary of the Alamance County Board of Education and with the Clerk of Superior Court of Alamance County and published once in a newspaper having general circulation in the County of Alamance, and such sale shall remain open for 10 days following such filing and publication of report of sale subject to upset bids which may be made during said 10-day period in the manner prescribed for making of upset bids in judicial sales of real property.

(c) If no upset bid is received within the time allowed for making of upset bids as provided, the Alamance County Board of Education may adopt resolution approving and confirming said sale, without necessity for any court authorization or approval, and proceed to convey the said real property and close purchase transaction as herein provided.

(d) In the event upset bid is made in the manner provided by law for making of upset bids in judicial sales of real property within the 10-day period following filing and publication of report of private sale, the Clerk of Superior Court of Alamance County shall order the said property resold in the manner provided by law for resales of real property in judicial sales, and the resale of such property following such upset bid; and procedure, therefor, shall be as prescribed by statute for judicial sales of real property.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 380 CHAPTER 293

AN ACT TO AMEND G.S. 153A-159 TO AUTHORIZE UNION COUNTY TO USE CONDEMNATION PROCEDURES PROVIDED IN ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES IN THE EXERCISE OF ITS POWER OF EMINENT DOMAIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-159 is hereby amended by adding thereto the following new paragraph:

"The procedures provided in Article 9 of Chapter 136 of the General Statutes may also be used in the case of acquisition by a county of lands, easements, privileges, right-of-ways, and other interests in real property for water supply, distribution systems, sewage collection and disposals systems in the exercise of the power of eminent domain. Whenever the words 'Board of Transportation' appear in Article 9 of Chapter 136 of the General Statutes they shall be deemed to include 'county' or 'County Commissioners', and wherever the words 'Administrator', 'Administrator of Highways', 'Administrator of the Board of Transportation', or 'Chairman of the Board of Transportation' appear in Article 9 of Chapter 136 of the General Statutes they shall be deemed to include 'County Manager'. Provided, however, that the provisions of this paragraph shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) or any electric or telephone membership corporation domesticated or incorporated in North Carolina unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the county or, otherwise, first adjudicated after

notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation or electric or telephone membership corporation."

Sec. 2. This act shall apply only to Union County and shall in no way affect the power of eminent domain conferred to Union County by G.S. 153A-159 or any other general law or local act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 477 CHAPTER 294

AN ACT TO PERMIT CURRITUCK COUNTY TO LEVY LICENSE TAXES UPON THE OPERATION OF CAMPGROUNDS AND OUTDOOR ADVERTISING BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 105-61.1 and G.S. 105-86, Currituck County may levy license taxes on the businesses taxed under those sections, subject only to the same limitations therein applicable to cities and towns.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 517 CHAPTER 295

AN ACT TO AMEND G.S. 25-9-403(3) CONCERNING FINANCING STATEMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-9-403(3) is hereby amended by adding the following sentence at the end thereof:

"Any continuation statement which is not filed in accordance with the requirements set forth herein and during the stated time periods set forth above shall be invalid."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 523 CHAPTER 296

AN ACT TO INCREASE THE MEMBERSHIP OF THE GUILFORD COUNTY BOARD OF EDUCATION FROM FIVE TO SEVEN MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Guilford County shall consist of seven members who shall be residents of the Guilford County Administrative Unit and who shall be elected at large by the qualified voters of the administrative unit for terms of four years.

Sec. 2. The incumbent members of the Guilford County Board of Education shall continue to hold office until their respective terms shall expire.

Sec. 3. At the general election to be held in November, 1978, four members shall be elected for four-year terms commencing the first Monday in December following their election. As terms expire thereafter, members of the Guilford County Board of Education shall be elected in nonpartisan elections at the time of the general election in November, and all terms shall commence on the first Monday in December next succeeding the election.

Those members of the Guilford County Board of Education who were elected to serve four-year terms to end in April will continue in office until the term for which they were elected would normally expire, notwithstanding the fact that this will cause the membership of the Guilford County Board of Education to exceed seven members for a short period of time.

Sec. 4. Absentee voting shall be allowed in all elections for membership to the Guilford County Board of Education.

Sec. 4.1. All vacancies in the membership of the Guilford County Board of Education by death, resignation, or other causes, which reduce the membership below seven members, shall be filled by appointment by the remaining members of the board, of a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.

Sec. 5. Except as amended herein in Section 1 and Section 3, Chapter 282 of the 1975 Session Laws shall continue in full force and effect with respect to the election of members of the Guilford County Board of Education.

Sec. 6. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 686 CHAPTER 297

AN ACT TO AMEND G.S. 148-22(b) TO ALLOW FOR INCREASED COOPERATION BETWEEN THE DEPARTMENT OF CORRECTION AND OTHER PUBLIC AND PRIVATE AGENCIES IN ORDER TO IMPROVE THE DELIVERY OF MENTAL HEALTH SERVICES TO INMATES OF THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-22(b), as the same appears in the 1975 Cumulative Supplement to Volume 3C, is hereby rewritten to read as follows:

"(b) The Department of Correction may cooperate with and seek the cooperation of public and private agencies, institutions, officials, and individuals in the development and conduct of programs designed to give persons committed to the department opportunities for physical, mental and moral improvement. The department may enter into agreements with other agencies of federal, State or local government and with private agencies to promote the most effective use of available resources.

Specifically the Secretary of Correction may enter into contracts or agreements with appropriate public or private agencies offering needed services including health, mental health, rehabilitative or training services for such inmates of the Department of Correction as the secretary may deem eligible. These agencies shall be reimbursed from applicable appropriations to the

Department of Correction for services rendered at a rate not to exceed that which such agencies normally receive for serving their regular clients.

The secretary may contract for the housing of work-release inmates at county jails and local confinement facilities. Inmates may be placed in the care of such agencies but shall remain the responsibility of the department and shall be subject to the complete supervision of the department. The department may reimburse such agencies for the support of such inmates at a rate not in excess of the average daily cost of inmate care in the corrections unit to which the inmate would otherwise be assigned."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 721 CHAPTER 298

AN ACT TO AMEND G.S. 115-55 RELATIVE TO THE FILLING OF VACANCY IN THE OFFICE OF A COUNTY OR CITY SUPERINTENDENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-55 is amended by adding at the end of the first sentence thereof the following sentence:

"Where the vacancy is filled on a temporary basis, subject to the same approvals and to the same educational qualifications as provided for superintendents, the individual appointed to fill the vacancy on a temporary basis shall be paid the salary provided for superintendents."

Sec. 2. This act shall become effective retroactive to July 1, 1976.

Sec. 3. All laws in conflict with this act are hereby repealed.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 781 CHAPTER 299

AN ACT TO AMEND CHAPTER 180 OF THE SESSION LAWS OF 1975 ENTITLED "CHARTER FOR THE CITY OF MORGANTON".

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of Section 2.22 of Chapter 180 of the Session Laws of 1975 is hereby amended by striking out the part of the proviso at the end of the first sentence, to wit: "provided, however, that no ordinance shall be finally adopted on the date it is introduced unless adopted by an affirmative vote equal to or greater than two thirds of all of the council members, not including any member excused from voting on the question (but including the mayor's vote in case of equal division)", and by sutstituting in lieu thereof the following: "provided, however, that no ordinance shall be finally adopted on the date it is introduced unless adopted by an affirmative vote equal to or greater than two thirds of all the council members, not including the mayor and any member excused from voting on the question (but including the mayor's vote in case of equal division)."

Sec. 2. Subsection (b) of Section 3.1 of Chapter 180 of the Session Laws of 1975 is hereby amended by deleting the word "November" the three times it appears in this subsection.

Sec. 3. The corporate limits of the City of Morganton shall be as follows:

Beginning at the point of intersection of the centerline of N. C. Highway 181 and the centerline of Catawba River and runs thence downstream in a Northerly and Easterly direction with the meanders of the centerline of the Catawba River to a point at the center of the intersection of the Catawba River and Hunting Creek; thence following the meanders of the centerline of Hunting Creek to a point in the center of Hunting Creek and Goose Creek; thence following Goose Creek to the point of intersection with the corporate limits boundary line of Morganton as fixed by the Charter of the said City, as amended by private laws, extra Session 1921, Chapter 91, Section I, and being that boundary line including all the territory situate 1 1/8 mile of the center of the courthouse, the same being hereinafter designated as a charter boundary line, same point being 200 feet Southeast from the center of Brookside Lane; thence in a Southeasterly direction with the charter boundary line to a point 200 feet North of the right-of-way of East Union Street (U.S. 64-70 Business); thence in an Easterly direction parallel with Union Street at a distance of 200 feet North of the right-of-way of Union Street to a point 200 feet East of the Eastern right-of-way of Fleming Drive extended to the Northeast across U.S. 64-70; thence the boundary turns South 34° 53' West and follows the extension of the Eastern right-of-way and the Eastern right-of-way of Fleming Drive at a distance of 200 feet to a point in the center of East Prong Creek, turning at this point to the South and following the meanders of the centerline of East Prong Creek to a point said point being 1,791 feet North of the intersection of the centerline of East Prong Creek and Bethel Road; thence leaving the center of the creek and runs South 88° 31' 22" East 880.08 feet; thence South 23° 12' 59" East 350.2 feet; thence South 88° 20' 17" East 140 feet; thence South 1° 39' 31" West 180 feet; thence South 23° 32' 18" East 395.78 feet; thence South 66° 40' 37" West 150 feet; thence South 56° 11' 48" West 40.68 feet; thence South 66° 40' 21" West 158.84 feet; thence South 23° 19' 27" East 100 feet; thence South 17° 5' 52" East 100 feet; thence South 17° 5' 52" East 174 feet; thence South 24° 2' 4" West 55 feet; thence South 54° 42' 47" East 85 feet; thence South 35° 16' 49" West 160 feet; thence South 55° 50' 42" West 42.73 feet; thence South 35° 16' 42" West 150 feet; thence South 54° 43' 10" East 128 feet; thence South 65° 57' 39" East 89.5 feet; thence South 65° 57' 43" East 296.88 feet; thence South 65° 57' 11" East 40 feet; thence South 65° 57' 43" East 100 feet; thence South 24° 2' 52" West 149.89 feet; thence South 19° 28' 48" East 85.13 feet; thence South 45° 37' 27" West 149.94 feet; thence South 44° 25' 40" East 283.97 feet; thence South 46° 36' 13" East 96.27 feet; thence South 27° 5' 42" West 211.8 feet to a point said point being in the centerline of Bethel Road (S.R. 1704); thence South 27° 0' 2" West 1,375 feet to a stone monument; thence North 48° 46' West 905 feet to a point in the center of East Prong Creek said point being 2,075 feet South of the intersection of East Prong Creek and Bethel Road; thence turning at this point to the South and following the meanders of the centerline of East Prong Creek to a point at the fork of East Prong Creek and an unnamed branch; thence the line turns in an Easterly direction and follows this unnamed branch as it meanders for a distance of 1,095 feet; thence the line turns in a Northeasterly direction and follows the Grace Hospital property line and a depression in the land to an iron pipe, the same being the common corner of the Wesley Parker Estate and Grace Hospital property, also being the common corner and beginning corner of Morganton Medical Center property;

thence North 51° 29' West 291.96 feet; thence North 51° 52' West 197.56 feet; thence North 4° 57' West 71.44 feet to a point in the centerline of Parker Road; thence with the centerline of Parker Road North 56° 18' 30" East 404 feet; thence leaving the centerline of Parker Road South 52° 6' 20" East 455.62 feet to a point in the Grace Hospital property line and depression in the land; thence in a Northeasterly direction and following the property line and depression in the land to a point 200 feet West of Parker Road (S.R. 1708); thence the line turns in a Southeasterly direction following 200 feet off the right-of-way of Parker Road for a distance of 1,050 feet; thence the line turns in a South Southwesterly direction following a property line 1,440 feet to a point in the Northern right-of-way of Interstate 40; thence in a Westerly direction following the Northern right-of-way boundary line of Interstate 40 to a point in the center of Henredon Branch; thence the boundary turns Northwest and follows the meanders of the centerline of Henredon Branch to the centerline of the Southern Railway; thence in a generally Westerly direction following the centerline of Southern Railway to the center of Silver Creek; thence in a Southerly and Westerly direction following the meanders of the centerline of Big Silver Creek for a distance of 4,885 feet to a point in the center of the Duke Power Company transmission power line right-of-way; thence along the center of the power line right-of-way South 70° 18' East 750.55 feet; thence South 34° 45' East 342.64 feet; South 13° 25' East 215.07 feet; thence South 56° 35' East 689.53 feet to a point on the Western edge of a private road; thence following the Western edge of the private road South 15° 30' East 385.19 feet; thence North 18° 18' West 221.67 feet; thence South 15° 30' East 221.9 feet; thence North 88° 56' East 253 feet to a point on the Western edge of a private road; thence following the Western edge of the private road South 19° 10' East 405 feet to a point on the Northern edge of the Interstate 40 right-of-way; thence in a Westerly direction along the Northern edge of the Interstate 40 right-of-way as follows: South 87° 40' West 100 feet North 81° 27' West 100 feet, North 70° 25' West 100 feet, North 63° 30' West 100 feet, North 56° 45' West 100 feet North 60° 25' West 100 feet, North 70° 7' West 100 feet, North 80° 37' West 100 feet, South 86° 50' West 45 feet to a point; thence leaving the right-of-way of Interstate 40 North 2° 55' East 158 feet to a point; thence South 88° 14' West 432 feet to a point; thence North 02° 55' East 50 feet to a point; thence South 89° 22' West 241.74 feet to a point; thence South 2° 55' West 75 feet to a point; thence South 26° 45' East 172.79 feet to a point in the Northern edge of Interstate 40 right-of-way; thence along the Northern edge of Interstate 40 right-of-way North 87° 5' West 69.05 feet; thence leaving the right-of-way of Interstate 40 North 26° 45' West 168.03 feet; thence North 1° 45' West 189.09 feet; thence South 88° 22' West 967.4 feet; thence South 1° 38' West; 371.39 feet to a point on the Northern edge of Interstate 40 right-of-way; thence following the Northern edge of the Interstate right-of-way in a Western direction as follows: North 85° 44' West 410.25 feet, South 5° 9' West 35.65 feet North 85° 44' West 119.78 feet, North 87° 50' West 429.45 feet, North 0° 4' East 30 feet, South 89° 19' West 154.14 feet, South 1° 26' East 30 feet, South 86° 34' West 410.73 feet, South 84° 25' West 576.03 feet to a point at the intersection of the center of Silver Creek and Northern edge of Interstate 40 right-of-way; thence following the Northern right-of-way of Interstate 40 to the Southern right-of-way of S.R. 1150; thence following the Southern right-of-way of S.R. 1150 to a point in the center of Little Silver Creek where it intersects with the Southern

right-of-way of S.R. 1150; thence following in a Northeasterly direction the meanders of the centerline of Little Silver Creek 1,926 feet to a point; thence leaving Little Silver Creek North 1° East 180 feet to a point; thence North 89° 47' West 809.35 feet to a concrete monument; thence North 4° 44' East 416.33 feet to a concrete monument; thence North 0° 40' West 1,257 feet to a point 200 feet South of the center of the Southern Railway tracks; thence following and parallel to the center of the Southern Railway tracks at a distance of 200 feet North 77° East 1,602 feet; thence North 12° 40' West 1,253 feet crossing the center of the Southern Railway tracks at 200 feet and the center of U.S. 70 at 253 feet 1,400 feet West of the center of its intersection with Elm Street; thence following and parallel to the center of U.S. 70 at a distance of 1,000 feet North 78° 15' East 1,387 feet to a point 200 feet West of the center of Elm Street; thence North 0° 30' West 1,025 feet to a point on the Eastern bank of the Catawba River; thence North 75° 45' West 80 feet to a point in the center of the Catawba River; thence with the meanders of the centerline of the Catawba River as follows: North 5° East 180 feet; thence North 6° 55' West 400 feet; thence North 2° 15' East 313 feet in all 893 feet to a point in the center of the Catawba River; thence leaving the Catawba River South 89° 10' East 630 feet to a point; thence North 88° 40' East 1,953 feet to a point 200 feet East of Glendale Street; thence due South 786 feet following and parallel with the center of Glendale Street at a distance of 200 feet; thence 89° 20' East 505 feet to a point; thence South 0° 35' East 287 feet to a point; thence North 77° 35' East 220 feet to a point; thence South 11° 20' East 125 feet to a point; thence North 74° 5' East 395 feet to a point; thence North 14° 15' West 200 feet to a point; thence North 74° 30' East 280 feet to a point in the center of an unnamed branch; thence with the center of the said unnamed branch as follows: North 26° 30' East 104 feet; thence North 35° 55' East 119 feet; thence North 43° 10' East 126 feet; thence North 32° 5' East 77 feet; thence North 0° 15' East 258 feet in all 684 feet to a point in the center of the intersection of said unnamed branch and Catawba River; thence with the meanders of the centerline of the Catawba River to the point of the beginning.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective on and after the date of its ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 798 CHAPTER 300

AN ACT TO INCORPORATE THE TOWN OF RENNERT IN ROBESON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants of the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the "Town of Rennert", and shall have all the power, authority, rights, privileges or immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina, and particularly Chapter 160A of the General Statutes.

Sec. 2. The corporate limits of the Town of Rennert shall be a circle with a radius of one half mile, centering on the center of the intersection of Secondary Road 1752 and Secondary Road 1006.

Sec. 3. The Board of Commissioners of the Town of Rennert shall consist of five members. The mayor of the town shall be elected for a term of two years, and the members of the board shall be elected as herein provided for staggered terms of four years.

Sec. 4. Beginning with the regular municipal election to be held in Rennert in November 1977, the three candidates for town commissioner receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of each member expire, their successors shall be elected for terms of four years.

Sec. 5. The municipal elections shall be nonpartisan and decided by a simple plurality, and shall be held and conducted by the Robeson County Board of Elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

Sec. 6. The officers elected under this act shall take office on the first Monday in December following their election and qualify by taking the oath of office. The board of commissioners shall hold a regular meeting at least once a month, and shall fix the time and place of its regular meetings.

Sec. 7. The fiscal affairs of the town shall be governed by Chapter 159 of the General Statutes and all other pertinent provisions of the Constitution and general laws of the State. The board of commissioners may adopt a budget ordinance for the remaining months of the 1977-78 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. However, the board may not levy property taxes until the 1978-79 fiscal year.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 809 CHAPTER 301

AN ACT RELATING TO THE ELECTION OF THE COUNTY BOARD OF EDUCATION OF MACON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1106 of the 1967 Session Laws is hereby repealed.

Sec. 2. The governing body of the Macon County administrative school unit shall be a board of education designated as "the Macon County Board of Education". Said board shall have all the powers and duties set forth in Chapter 115 of the General Statutes for local boards of education.

Sec. 3. The present members of the Macon County Board of Education shall continue in office and shall constitute the governing body of said administrative school unit until their present terms expire. The successors to the present board of trustees shall be elected by the people in the manner hereinafter provided in this act. At the first election held under the provisions of this act, the successor to the member of the board whose term expires on April 1, 1979, shall be elected for a term of four years. In addition, there shall be

elected at the first election held under the provisions of this act, two additional members of the board of education from the county at large. Of these two members of the board of education, the one receiving the highest number of votes shall serve for a term of four years and the one receiving the second highest number of votes shall serve for a term of two years. Thereafter, the successors to the members whose terms expire shall be elected for a term of four years.

Sec. 4. The Macon County Board of Education shall consist of five members. Of these five members at least one shall reside within the attendance zone of Highlands High School, at least one within the attendance zone of Franklin High School and at least one within the attendance zone of Nantahala High School.

Sec. 5. At the same time the general election for county officers is held in Macon County in 1978, and biennially thereafter, there shall be held a nonpartisan election to elect members of the Board of Education of Macon County. Each candidate shall file his candidacy, without reference to any political party affiliation, with the chairman of the county board of elections no later than 40 days prior to the date of the general election for county officers. A filing fee of five dollars ($5.00) shall be paid by each candidate. There shall be a separate ballot provided by the county board of elections with the names of the candidates printed thereon with appropriate instructions for use in the election of members of the board of education, and no political party affiliation shall be shown on said ballot. Except as hereinabove provided, the candidate receiving the highest number of votes in the general election of 1978, and biennially thereafter, shall be certified as the duly elected member of the board of education.

Sec. 6. The members of the Board of Education of Macon County elected in 1978, and biennially thereafter, shall be inducted into and take the oath of office on the first Monday in April following his election, and except as hereinabove provided, shall serve for a term of four years and until his successor is elected and qualified.

Sec. 7. All vacancies occurring on the membership of the Board of Education of Macon County by death, resignation, or otherwise shall be filled within 10 days of such vacancy for the unexpired term by the remaining members of the board of education. If the remaining members cannot agree within 10 days of such vacancy on the name of a successor, such vacancy shall be filled within 10 days thereafter by the Governor for the unexpired term.

Sec. 8. All elections for the members of the Board of Education of Macon County as herein provided shall be held under the laws and regulations governing elections for county officers as provided in the General Statutes of North Carolina.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 849

CHAPTER 302

AN ACT TO PROVIDE FOR FIVE MEMBERS OF THE CAMDEN COUNTY BOARD OF COMMISSIONERS, THREE ELECTED FROM DISTRICTS AND TWO ELECTED AT LARGE, AND PROVIDING FOR STAGGERED TERMS OF FOUR YEARS, SUBJECT TO A REFERENDUM OF THE VOTERS OF THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Camden County shall consist of five members. For the purpose of nominating and electing the members of the Board of Commissioners, the county is divided into four resident districts with one commissioner elected from Districts Nos. 1, 2 and 3, and two commissioners to be elected from District No. 4, which shall be the county at large.

District No. 1 shall be composed of South Mills Township.

District No. 2 shall be composed of Courthouse Township.

District No. 3 shall be composed of Shiloh Township.

District No. 4 shall be composed of the entire county.

Until their successors are elected and qualified, the incumbent members of the Camden County Board of Commissioners shall represent the districts as follows:

District No. 1 - M. J. Johnson, for a term expiring in 1980.

District No. 2 - Franklin Williams, for a term expiring in 1978.

District No. 3 - T. F. Leary, for a term expiring in 1978.

In the primary and general election to be held for county officers in 1978, two commissioners shall be elected from District No. 4, one commissioner shall be elected from District No. 2, and one commissioner shall be elected from District No. 3. The candidate elected from District No. 4 with the highest number of votes shall be elected for a four-year term, and the other candidate elected from District No. 4 shall be elected for a two-year term. Of the remaining two candidates elected in 1978, the candidate with the highest number of votes shall be elected for a four-year term, and the other for a two-year term. Thereafter, as the term of each member expires, his sucessor shall be elected for a term of four years.

Sec. 2. At the next countywide primary, election or referendum held in Camden County, the county board of elections shall submit to the qualified voters of Camden County the question of whether the membership of the Board of County Commissioners shall be increased to five and elected as provided in Section 1 of this act. The special election shall be conducted in accordance with the general election laws of the State, and notice of the election shall be given as provided in G.S. 163-33(8).

The issue on the ballot shall be as follows:

FOR increasing the number of county commissioners from three to five, three to be elected from districts, and two to be elected at large for four-year staggered terms.

AGAINST increasing the number of county commissioners from three to five, three to be elected from districts, and two to be elected at large for four-year staggered terms.

Sec. 3. If a majority of those voting are in favor of the issue submitted, then Section 1 of this act shall become effective upon the certification of the results by the Board of Elections. If a majority of votes be against the issue submitted, then this act shall be null and void.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

S. B. 82 CHAPTER 303

AN ACT TO BE KNOWN AS THE NORTH CAROLINA COMMERCIAL FERTILIZER LAW.

The General Assembly of North Carolina enacts:

Section 1. This Article shall be known as the "North Carolina Commercial Fertilizer Law."

Sec. 2. The purpose of this Article shall be to assure the manufacturer, distributor, and consumer of the correct quality and quantity of all commercial fertilizer sold in this State, and to assure the safe handling of fluid fertilizers.

Sec. 3. Definitions. When used in this Article:

(1) The term "brand name" means the name under which any individual mixed fertilizer or fertilizer material is offered for sale, and may include a number, trademark, or other designation.

(2) The term "bulk fertilizer" means a commercial fertilizer distributed in non-package form.

(3) The term "commercial fertilizer" includes both fluid and dry mixed fertilizer and/or fertilizer materials.

(4) The term "contractor" means any person, firm, corporation, wholesaler, retailer, distributor or any other person, who for hire or reward applies commercial fertilizer to the soil or crop of a consumer; provided, that this shall not apply to any consumer applying commercial fertilizer to only the land or crop that he owns or to which he otherwise holds rights, for the production of his own crops.

(5) The term "distributor" means any person who offers for sale, sells, barters, or otherwise supplies mixed fertilizer or fertilizer materials.

(6) The term "fertilizer material" means any substance containing either nitrogen, phosphorus, potassium, or any other recognized plant food element or compound which is used primarily for its plant food content or for compounding mixed fertilizers. Not included in this definition are all types of unmanipulated animal and vegetable manures and mulches for which no plant food content is claimed.

(7) The term "grade" means the percentage of total nitrogen, available phosphoric acid (as P2O5) and soluble potash (as K2O) stated in the order given in this paragraph, and, when applied to mixed fertilizers, shall be in whole numbers only for all packages larger than sixteen ounces.

(8) The term "fluid fertilizer" means a nonsolid commercial fertilizer.

(9) The term "manipulated manures" means substances composed primarily of excreta, plant remains or mixtures of such substances which have

been processed in any manner, including the addition of plant foods, artificially drying, grinding and other means.

In "manipulated manures" the minimum percentages of total nitrogen, available phosphoric acid (as P2O5) and soluble potash (as K2O) are to be guaranteed, and the guarantee stated in multiples of half (.50) percentages. Additions of plant food shall be limited to one half (.50) percent each of nitrogen, phosphorus and potash.

(10) The term "manufacturer" means a person engaged in the business of preparing, mixing, or manufacturing commercial fertilizers; and the term "manufacture" means preparing, mixing, or combining fertilizer materials chemically or physically.

(11) The term "mixed fertilizers" means products resulting from the combination, mixture, or simultaneous application of two or more fertilizer materials for use in, or claimed to have value in promoting plant growth.

(12) The term "mulch" means substances composed primarily of plant remains or mixtures of such substances to which no plant food has been added and for which no plant food is claimed.

(13) The term "fortified mulch" means substances composed primarily of plant remains or mixtures of such substances to which plant food has been added and for which plant food is claimed.

In "fortified mulches" the minimum percentages of total nitrogen, available phosphoric acid, and soluble or available potash are to be guaranteed and the guarantee stated in multiples of quarter (.25) percentages; provided, however, that such percentages shall not exceed one percent (1%), respectively, subject to the same limits and tolerances set forth in this chapter.

(14) The term "official sample" means any sample of commercial fertilizer taken by the commissioner or his authorized agent according to the method prescribed in subsection (b) of Section 8.

(15) The term "organic fertilizer" means a material containing carbon and one or more elements other than hydrogen and oxygen essential for plant growth.

(16) The term "natural organic fertilizer" means material derived from either plant or animal products containing one or more elements (other than carbon, hydrogen and oxygen) which are essential for plant growth. These materials may be subjected to biological degradation processes under normal conditions of aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic bacterial action, or any combination of these. These materials shall not be mixed with synthetic materials, or changed in any physical or chemical manner from their initial state except by physical manipulations such as drying, cooking, chopping, grinding, shredding or pelleting.

(17) The term "percent" or "percentage" means the percentage by weight.

(18) The term "person" includes individuals, partnerships, associations, firms, agencies, and corporations, or other legal entity.

(19) The term "retailer" means any person who sells or delivers fertilizer to a consumer.

(20) The term "sale" means any transfer of title or possession, or both, exchange or barter of tangible personal property, conditional or otherwise for a consideration paid or to be paid, and this shall include any of said transactions whereby title or ownership is to pass and shall further mean and include any

bailment, loan, lease, rental or license to use or consume tangible personal property for a consideration paid in which possession of said property passes to the bailee, borrower, lessee, or licensee.

(21) The term "sell" means the alienation, exchange, transfer or contact for such transfer of property for a fixed price in money or its equivalent.

(22) The term "specialty fertilizer" means any fertilizer distributed primarily for use on noncommercial crops such as gardens, lawns, shrubs, flowers, golf courses, cemeteries, nurseries, etc., and may include fertilizers used for research or experimental purposes.

(23) The term "ton" means a net ton of two thousand pounds avoirdupois.

(24) The term "unmanipulated manures" means substances composed primarily of excreta, plant remains or mixtures of such substances which have not been processed in any manner.

(25) The term "wholesaler" shall mean any person who sells to any other person for the purpose of resale, and who also may sell to a consumer.

(26) Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.

Sec. 4. This Article shall be administered by the Commissioner of Agriculture of the State of North Carolina, or his authorized agent, hereinafter referred to as the "commissioner".

Sec. 5. Minimum plant food content. Superphosphate containing less than eighteen percent (18%) available phosphoric acid, or any mixed fertilizer in which the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than twenty percent (20%) may not be offered for sale, sold, or distributed in this State; provided, however, the minimum plant food requirement contained herein shall not apply to containers of 10 pounds or less, but such packages are not exempt from any other requirements of this Article. Packages of 16 fluid ounces or less when in liquid form, or 16 ounces or less avoirdupois when in a dry form, may be sold in fractional percentages, but such packages are not exempt from any other requirements of this Article.

Sec. 6. (a) Each brand of commercial fertilizer, manipulated manure and fortified mulch shall be registered by the person whose name appears upon the label before being offered for sale, sold, or distributed in this State, with the exception of those brands clearly produced for experimental and demonstration purposes only. The application for registration shall be submitted in duplicate to the commissioner on forms furnished by the commissioner, and shall be accompanied by a remittance of two dollars ($2.00) per brand and grade as a registration fee for packages over five pounds. Registration fees for packages of five pounds or less shall be twenty-five dollars ($25.00). Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30 of each year. The application shall include the following information:

(1) The name and address of the person guaranteeing registration.

(2) The brand.

(3) The grade.

(4) The guaranteed analysis showing the percentage of plant food in the following order and form; provided, that the Commissioner of Agriculture may vary this order and form for packages of 25 pounds or less.

Type Fertilizer	Total Nitrogen	Nitrate Nitrogen	Water Insoluble Nitrogen	Available Phosphoric Acid
Type Fertilizer	Total Nitrogen	Nitrate Nitrogen	Water Insoluble Nitrogen	Available Phosphoric Acid
General Crop	Required	Optional	Optional	Required
Field Fertilizer for Tobacco	Required	Optional	Optional	Required
Tobacco Plant Bed	Required	Optional	Optional	Required
Tobacco Top Dressers	Required	Optional	Optional	Required
Materials	Required	Optional	Optional	Required
Manipulated Manures	Required	Optional	Optional	Required
Organic Fertilizer	Required	Optional	Required*	Required
Fortified Mulches	Required	Optional	Optional	Required
Specialty (Other than Organic)	Required	Optional	Optional	Required

*(Minimum 15% of total)

Type Fertilizer	Soluble Potash	Chlorine (Maximum)	Acidity or Basicity
General Crop	Required	Optional	Optional
Field Fertilizer for Tobacco	Required	Required	Optional
Tobacco Plant Bed	Required	Required	Optional
Tobacco Top Dressers	Required	Required	Optional
Materials	Required	Optional	Optional
Manipulated Manures	Required	Optional	Optional
Organic Fertilizer	Required	Optional	Optional
Fortified Mulches	Required	Optional	Optional
Specialty (Other than Organic)	Required	Optional	Optional

(b) If acid forming or nonacid forming potential is guaranteed, the potential acidity or basicity must be expressed as equivalent pounds per ton of calcium carbonate.

(c) All natural organic fertilizer materials including manipulated manures, sewage sludge, tankage and any other natural organic product that does not

come under the definition of mixed fertilizer shall be registered, labeled and sold by the name of such natural organic fertilizer materials only.

(d) No product may be registered, sold, offered for sale or distributed as an organic fertilizer when less than fifteen percent (15%) of the total nitrogen is water insoluble nitrogen.

(e) In the case of bone, tankage, and other organic phosphate materials on which the chemist makes no determination of available phosphoric acid, the total phosphoric acid shall be guaranteed: Provided, that unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphoric acid and the degree of fineness.

(5) The sources from which the nitrogen, phosphoric acid, and potash are derived.

(6) Magnesium (Mg), calcium (Ca), and sulfur (S) may be claimed as secondary plant food in all commercial fertilizers, but only in the elemental form. When one or more of these are claimed the minimum percentage of total magnesium (Mg), total calcium (Ca), and total sulfur (S), as applicable, shall be guaranteed.

(7) Boron may be claimed as an ingredient of mixed fertilizers. If claimed, it shall be guaranteed in terms of percent boron (B). The guarantee will be considered both a minimum and a maximum guarantee. When the boron content is .03% or more, the analysis guarantee shall be on a separate tag as prescribed by the commissioner.

(8) Additional plant food elements, compounds, or classes of compounds, determinable by chemical control methods, may be guaranteed only by permission of the commissioner who may seek the advice of the director of the experiment station. When any such additional plant food elements, compounds, or classes of compounds are included in the guarantee, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the commissioner. The commissioner shall also fix penalties for failure to fulfill such guarantees.

(9) In no case, except in the case of unacidulated mineral phosphates and/or basic slag unmixed with other materials shall both the terms "total phosphoric acid" and "available phosphoric acid" be used in the same statement of analysis.

(b) The distributor of any brand and grade of commercial fertilizer shall not be required to register the same if it has already been registered under this Article by a person entitled to do so and such registration is then outstanding.

(c) The grade of any brand of mixed fertilizer shall not be changed during the registration period, but the guaranteed analysis may be changed in other respects and the sources of materials may be changed: Provided, prompt notification of such change is given to the commissioner and the change is noted on the container or tag: Provided, further, that the guaranteed analysis shall not be changed if it, in any way, lowers the quality of the fertilizer: Provided, further, that if at a subsequent registration period, the registrant desires to make any change in the registration of a given brand and grade of fertilizer, said registrant shall notify the commissioner of such change 30 days in advance of such registration. If the commissioner, after consultation with the director of the agricultural experiment station decides that such change materially lowers the crop producing value of the fertilizer, he shall notify the registrant of his conclusions, and if the registrant registers the brand and grade with the

proposed changes, then the commissioner shall give due publicity to said changes through the Agricultural Review or by such other means as he may deem advisable.

(d) Any person wishing to become a fertilizer manufacturer, as defined in this Article shall before engaging in such business secure a license from the Commissioner of Agriculture. Such person shall make application for such license on forms to be furnished by the commissioner submitting such information as to his proposed operation as the commissioner may prescribe. Such license shall be renewable annually on the first day of July. Such license may be revoked for a violation of any provisions of this Article, or of any rule or regulation adopted by the Board of Agriculture.

(e) When fluid fertilizer is offered for sale or sold in this State, the method of transfer of custody shall be by weight expressed in pounds, and shall be invoiced in such a manner as to show the name of the seller, the name of the purchaser, the date of sale, the grade, and the net weight; provided, however, that fluid fertilizer may be measured in gallons of 231 cubic inches and its equivalent expressed in pounds, with a formula for converting from gallons to pounds shown on the invoice.

(f) Any person before engaging in the business of handling, storing or distributing fluid fertilizer in this State shall register with the commissioner and shall re-register on or before July 1 of each year thereafter so long as he shall engage in said business. The application for registration shall be submitted in duplicate on forms furnished by the Commissioner of Agriculture.

(g) Before any wholesale or retail fluid fertilizer distributing plant shall be built in this State, a general layout of such plant shall be submitted in duplicate and approved by the commissioner. In order that such a layout may be approved it must conform to the minimum standards and rules and regulations, relating to safe handling, storage, distribution and/or application adopted by the Board of Agriculture. All storage tanks, transfer or transport containers, applicator containers, and attached equipment shall conform to the minimum standards adopted by the Board of Agriculture. It shall be the duty of the contractors referred to in Section 3(4) to obtain, maintain and operate in accordance with the minimum standards and rules and regulations adopted by the Board of Agriculture, any and all equipment which he may use in the application of fluid fertilizer. It shall be the duty of the commissioner to inspect and ascertain whether or not the provisions of this section are complied with.

Sec. 7. (a) Any commercial fertilizer offered for sale, sold, or distributed in this State in bags, barrels, or other containers shall have placed on or affixed to the container the net weight and the data in written or printed form, required by Section 6(a), with the exception of subdivision (5), either (i) on tags to be affixed to the end of the package or (ii) directly on the package. In case the brand name appears on the package, the grade shall also appear on the package, immediately preceding the guaranteed analysis or as a part of the brand name. The size of the type of numerals indicating the grade on the containers shall not be less than two inches in height for containers of 100 pounds or more; not less than one inch for containers of 50 to 99 pounds; and not less than 1/2 inch for packages of 25 to 49 pounds. On packages of less than 25 pounds, the grade must appear in numerals at least one half as large as the letters in the brand name. In case of fertilizers sold in containers on which the brand name or other

designations of the distributor do not appear, the grade must appear in a manner prescribed by the commissioner on tags attached to the container.

(b) If transported in bulk, the net weight and the data, in written or printed form, as required by Section 6(a), with the exception of subdivision (5), shall accompany delivery and be supplied to the purchaser.

(c) If mixed fertilizer is sold or intended to be sold in bags weighing more than 100 pounds, each bag must have a tag attached thereto, of a type approved by the commissioner, showing the grade of the fertilizer contained therein. Such tag must be attached on the end of each bag, approximately at the center of the sewed end of the bag: Provided, that in lieu of such tag the grade of the fertilizer may be printed on the end of the bag in readily legible numerals.

(d) All commercial fertilizer labels and registrations shall carry identical guarantees for each product.

Sec. 8. (a) It shall be the duty of the commissioner to sample, inspect, make analysis of, and test commercial fertilizers offered for sale, sold, or distributed within the State at such time and place and to such an extent as he may deem necessary to determine whether such commercial fertilizers are in compliance with the provisions of this Article. The commissioner is authorized with permission or under court warrant to enter upon any public or private premises during regular business hours or at any time business is being conducted therein in order to have access to commercial fertilizers subject to the provisions of this Article and the rules and regulations thereto.

(b) The methods of sampling shall be as follows:

(1) For the purposes of analysis by the commissioner and for comparison with the guarantee supplied to the commissioner in accordance with Section 6 and Section 7, the commissioner, shall take an official sample of not less than one pound from containers of commercial fertilizer. No sample shall be taken from less than five containers. Portions shall be taken from containers as shown in the following table.

5 to 10 containers	all containers
11 to 20 containers	10 containers
21 to 40 containers	15 containers
above 40 containers	20 container

Ten cores from bulk lots or as specified by the Association of Official Analytical Chemists (A.O.A.C.)

(2) A core sampler shall be used that removes a core from a bag or other container in a horizontal position from a corner to the diagonal corner at the other end of the package, and the cores taken shall be mixed, and if necessary, shall be reduced after thoroughly mixing, to the quantity of sample required. The composite sample taken from any lot of commercial fertilizer under the provisions of this subdivision shall be placed in a tight container and shall be forwarded to the commissioner with proper identification marks.

(3) The Board of Agriculture may modify the provisions of this subsection to bring them into conformity with any changes that may hereafter be made in the official methods of and recommendations for sampling commercial fertilizers which shall have been adopted by the Association of Official Analytical Chemists or by the Association of American Plant Food Control Officials. Thereafter, such methods and recommendations shall be used in all sampling done in connection with the administration of this Article in lieu of those prescribed in subdivisions (1) and (2) of this subsection.

(4) All samples taken under the provisions of this section shall be taken from original unbroken bags or containers, the contents of which have not been damaged by exposure, water or otherwise.

(5) The commissioner shall refuse to analyze all samples except those taken under the provisions of this section and no sample, unless so taken, shall be admitted as evidence in the trial of any suit or action wherein there is called into question the value or composition of any lot of commercial fertilizer distributed under the provisions of this Article.

(6) In the trial of any suit or action wherein there is called in question the value or composition of any lot of commercial fertilizer, a certificate signed by the fertilizer chemist and attested with the seal of the Department of Agriculture, setting forth the analysis made by the chemist of the Department of Agriculture, of any sample of said commercial fertilizer, drawn under the provisions of this section and analyzed by them under the provisions of the same, shall be prima facie proof that the lot of fertilizer represented by the sample was of the value and constituency shown by said analysis. And the said certificate of the chemist shall be admissible in evidence.

(c) The methods of analysis shall be those adopted as official by the Board of Agriculture and shall conform to sound laboratory practices as evidenced by methods prescribed by the Association of Official Analytical Chemists of the United States. In the absence of methods prescribed by the board, the commissioner shall prescribe the methods of analysis.

(d) The result of official analysis of any commercial fertilizer which has been found to be subject to penalty shall be forwarded by the commissioner to the registrant at least 10 days before the report is submitted to the purchaser. If, during that period, no adequate evidence to the contrary is made available to the commissioner, the report shall become official. Upon request the commissioner shall furnish to the registrant a portion of any sample found subject to penalty.

(e) Any purchaser or consumer may take and have a sample of mixed fertilizer or fertilizer material analyzed for available plant food, if taken in accordance with the following rules and regulations:

(1) At least five days before taking a sample, the purchaser or consumer shall notify the manufacturer or seller of the brand in writing, at his permanent address, of his intention to take such a sample and shall request the manufacturer or seller to designate a representative to be present when the sample is taken.

(2) The sample shall be drawn in the presence of the manufacturer, seller, or representative designated by either party together with two disinterested adult persons; or in case the manufacturer, seller, or representative of either refuses or is unable to witness the drawing of such a sample, a sample may be drawn in the presence of three disinterested adult persons; provided, any such sample shall be taken with the same type of sampler as used by the inspector of the Department of Agriculture in taking samples and shall be drawn, mixed, and divided, as directed in subdivisions (1), (2), (3), and (4) of subsection (b) of this section, except that the sample shall be divided into two parts each to consist of at least one pound. Each of these is to be placed into a separate, tight container, securely sealed, properly labeled, and one sent to the commissioner for analysis and the other to the manufacturer. A certificate statement in a form which will be prescribed and supplied by the commissioner must be signed

by the parties taking and witnessing the taking of the sample. Such certificate is to be made and signed in duplicate and one copy sent to the commissioner and the other to the manufacturer or seller of the brand sampled. The witnesses of the taking of any sample, as provided for in this section, shall be required to certify that such sample has been continuously under their observation from the taking of the sample up to and including the delivery of it to an express agency, a post office or to the office of the commissioner.

(3) Samples drawn in conformity with the requirements of this section shall have the same legal status in the courts of the State, as those drawn by the commissioner or any official inspector appointed by him as provided for in subsection (b) of this section.

(4) No suit for damages claimed to result from the use of any lot of mixed fertilizer or fertilizer material may be brought unless it shall be shown by an analysis of a sample taken and analyzed in accordance with the provisions of this Article, that the said lot of fertilizer as represented by a sample or samples taken in accordance with the provisions of this section does not conform to the provisions of this Article with respect to the composition of the mixed fertilizer or fertilizer material, unless it shall appear to the commissioner that the manufacturer of the fertilizer in question has, in the manufacture of other goods offered in this State during such season, employed such ingredients as are prohibited by the provisions of this Article, or unless it shall appear to the commissioner that the manufacturer of such fertilizer has offered for sale during that season any kind of dishonest or fraudulent goods or unless it shall appear to the commissioner that the manufacturer of the fertilizer in question, or a representative, agent or employee of the manufacturer, has violated any provisions of Section 9.

Sec. 9. It shall be unlawful to make, in any manner whatsoever, any false or misleading statement or representation with regard to any commercial fertilizer offered for sale, sold, or distributed in this State, or to use any misleading or deceptive trademark or brand name in connection therewith. The commissioner is hereby authorized to refuse the registration of any commercial fertilizer with respect to which this section is violated.

Sec. 10. For the purpose of determing the commercial values to be applied under the provisions of Section 11, the commissioner shall determine and publish annually the values per pound of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizers in this State. The values so determined and published shall be used in determining and assessing penalties.

Sec. 11. Plant food deficiency. (a) The commissioner, in determining for administrative purposes, whether any commercial fertilizer is deficient in plant food, shall be guided solely by the official sample as defined in subdivision (14) of Section 3, and as provided for in subsections (b), (c), and (d) of Section 8.

(b) If the analysis shall show that any commercial fertilizer falls short of the guaranteed analysis in any ingredient, a penalty shall be assessed in accordance with the following provisions:

(1) For total nitrogen, available phosphoric acid, or available potash: A penalty of three times the value of the deficiency if such deficiency is in excess of the following investigational allowances.

Guarantee Percentage	Total Nitrogen	Available Phosphoric Acid	Soluble Potash Percentage
4 or less	0.49	0.67	0.41
5	0.51	0.67	0.43

6	0.52	0.67	0.47
7	0.54	0.68	0.53
8	0.55	0.68	0.60
9	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39
32 or more	0.88	0.76	1.44

(2) Should the basicity or acidity as equalivent of calcium carbonate of any sample of fertilizer be found upon analysis to differ more than five percent (5%) (or one hundred pounds of calcium carbonate equivalent per ton) from the guarantee, a penalty of fifty cents (50¢) per ton for each 50 pounds calcium carbonate equivalent, or fraction thereof in excess of the 100 pounds allowed, shall be assessed and paid as is prescribed in subsection (c) of this section.

(3) Chlorine: If the chlorine content of any lot of fertilizer branded for tobacco shall exceed the maximum amount guaranteed by more than 0.5 of one percent, a penalty shall be assessed equal to ten percent (10%) of the value of the fertilizer for each additional 0.5 of one percent of excess or fraction thereof.

(4) Water insoluble nitrogen: A penalty of three times the value of the deficiency shall be assessed, if such deficiency is in excess of 0.15 of one percent on goods guaranteed up to and including five-tenths percent; 0.20 of one percent on goods guaranteed from five-tenths percent to one percent; 0.30 of one percent on goods guaranteed from one percent to two percent; 0.50 of one percent on goods guaranteed above two percent and up to and including five percent; and 1.00 percent on goods guaranteed over five percent.

(5) Nitrate nitrogen: A penalty of three times the value of the deficiency shall be assessed if the deficiency shall exceed 0.20 of one percent for goods guaranteed up to and including five-tenths percent; 0.25 of one percent for goods guaranteed from five-tenths to one percent; 0.30 of one percent for goods guaranteed from one to two percent; and 0.35 of one percent for goods guaranteed above two percent up to four percent. Tolerances for goods guaranteed above four percent shall be the same as for total nitrogen.

(6) Total magnesium: If the magnesium content is as much as 0.2 unit plus 5 percent of the guarantee below the minimum amount guaranteed, a penalty of one dollar ($1.00) per ton shall be assessed for each 0.15 of one percent additional deficiency or fraction thereof.

(7) Total calcium: If the calcium content is as much as 0.2 unit plus 5 percent of the guarantee below the minimum amount guaranteed, a penalty of one dollar ($1.00) per ton shall be assessed for each 0.35 of one percent additional deficiency or fraction thereof.

(8) Sulfur: If the sulfur content is as much as 0.2 unit plus 5 percent of the guarantee below the minimum amount guaranteed in the case of all mixed fertilizers, including mixed fertilizers branded for tobacco, a penalty of one dollar ($1.00) per ton for each 0.50 of one percent additional excess or fraction thereof, shall be assessed.

(9) Deficiencies or excesses in any other constituent or constituents covered under subdivisions (6) and (7), subsection (a), Section 6 which the registrant is required to or may guarantee shall be evaluated by the commissioner and penalties therefor shall be prescribed by the commissioner in fertilizer regulations.

(10) For micro-nutrients as are not specifically covered in this Article, a tolerance of 25 percent of the guarantee will be allowed for each element, not to exceed 1/2 unit (.5%) on guarantees up to 15 units or percent and not to exceed one unit (1%) on guarantees above 15 units or percent.

(c) All penalties assessed under this section shall be paid to the consumer of the lot of fertilizer represented by the sample analyzed within three months from the date of notice by the commissioner to the distributor, receipts taken therefor, and promptly forwarded to the commissioner; provided, that in no case shall the total assessed penalties exceed the commercial value of the goods to which it applies. If said consumer cannot be found, the amount of the penalty assessed shall be paid to the commissioner who shall deposit the same in the Department of Agriculture fund, of which the State Treasurer is custodian. Such sums as shall be found to be payable to consumers on lots of fertilizer against which said penalties were assessed shall not be subject to claim by the consumer after 12 months from the date of assessment.

Sec. 12. It shall be the duty of the commissioner to issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and to hold at a designated place when the commissioner finds said commercial fertilizer is being offered or exposed for sale in violation of any of the provisions of this Article until the law has been complied with and said commercial fertilizer is released in writing by the commissioner or said violation has been otherwise legally disposed of by written authority. The commissioner shall release the commercial fertilizer so withdrawn when the requirements of the provisions of this Article have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal.

Sec. 13. Any lot of commercial fertilizer not in compliance with the provisions of this Article shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial fertilizer is located. In the event the court finds the said commercial fertilizer to be in violation of this Article and orders the condemnation of said commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the State; provided, that in no instance shall the disposition of said commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for the release of said commercial fertilizer or for permission to process or relabel said commercial fertilizer to bring it into compliance with this Article.

Sec. 14. Each of the following offenses shall be a misdemeanor and any person upon conviction thereof shall be punished as provided by law for the punishment of misdemeanors:

(1) To manufacture, offer for sale, or sell in this State any mixed fertilizer or fertilizer materials containing any substance that is injurious to crop growth or deleterious to the soil, or to use in such mixed fertilizer or fertilizer materials as a filler any substance with the effect of defrauding the purchaser.

(2) To offer for sale or to sell in this State for fertilizer purposes any raw or untreated leather, hair, wool waste, hoof, horn, rubber or similar nitrogenous materials, the plant food content of which is largely unavailable, either as such or mixed with other fertilizer materials.

(3) To make any false or misleading representation in regard to any mixed fertilizer or fertilizer material shipped, sold or offered for sale by him in this State, or to use any misleading or deceptive trademark or brand in connection therewith. The sale or offer for sale of any mixture of nitrogenous fertilizer materials under a name or other designation descriptive of only one of the components of the mixture shall be considered deceptive and fraudulent.

The commissioner is authorized to refuse registration for any commercial fertilizer with respect to which this section is violated.

(4) The filing with the commissioner of any false statement of fact in connection with the registration under Section 6 of any commercial fertilizer.

(5) Forcibly obstructing the commissioner or any official inspector authorized by the commissioner in the lawful performance by him of his duties in the administration of this Article.

(6) Knowingly taking a false sample of commercial fertilizer for use under provisions of this Article; or knowingly submitting to the commissioner for analysis a false sample thereof; or making to any person any false representation with regard to any commercial fertilizer sold or offered for sale in this State for the purpose of deceiving or defrauding such other person.

(7) The fraudulent tampering with any lot of commercial fertilizer so that as a result thereof any sample of such commercial fertilizer taken and submitted for analysis under this Article may not correctly represent the lot; or tampering with any sample taken or submitted for analysis under this Article, if done prior to such analysis and disposition of the sample under the direction of the commissioner.

(8) The delivery to any person by the fertilizer chemist or his assistants or other employees of the commissioner of a report that is willfully false and misleading on any analysis of commercial fertilizer made by the department in connection with the administration of this Article.

(9) Selling or offering for sale in this State commercial fertilizer without marking the same as required by Section 7.

(10) Selling or offering for sale in this State commercial fertilizer containing less than the minimum content required by Section 5.

(11) Failure of any manufacturer, importer, jobber, agent, or dealer to have applied for and to have been issued a permit as required by Section 17 before selling, offering, or exposing for sale or distributing commercial fertilizers in this State.

(12) Failure of any manufacturer or contractor to procure a license under the provisions of Section 6(d) before beginning operations within the State.

Sec. 15. The commissioner is authorized and empowered to cancel the registration of any brand of commercial fertilizer or to refuse to register any brand of commercial fertilizer upon proof that the registrant has been guilty of fraudulent or deceptive practices, or in the evasion or attempted evasion of the provisions of this Article or any rules or regulations promulgated thereunder. No registration shall be cancelled until the registrant has been given an opportunity for a hearing pursuant to the provisions of Article 3 of Chapter 150A of the General Statutes.

Sec. 16. Nothing contained in this Article shall prevent any person from appealing to a court of competent jurisdiction from any assessment of penalty or other final order or ruling of the Commissioner or Board of Agriculture.

Sec. 17. (a) For the purpose of defraying expenses on the inspection and of otherwise determining the value of commercial fertilizers in this State, there shall be paid to the Department of Agriculture a charge of twenty-five cents (25¢) per ton on all commercial fertilizers other than packages of five pounds or less. Inspection fees shall be paid on all tonnage distributed into North Carolina to any person not having a valid reporting permit. On individual packages of five pounds or less there shall be paid in lieu of the tonnage fee an annual registration fee of twenty-five dollars ($25.00) for each brand offered for sale, sold, or distributed; provided that any per annum (fiscal) tonnage of any brand sold in excess of one hundred tons may be subject to the charge of twenty-five cents (25¢) per ton on any amount in excess of one hundred tons as provided herein. Whenever any manufacturer of commercial fertilizer shall have paid the charges required by this section his goods shall not be liable to further tax, whether by city, town, or county; provided, this shall not exempt the commercial fertilizers from an ad valorem tax.

(b) Reporting System. Each manufacturer, importer, jobber, firm, corporation or person who distributes commercial fertilizers in this State shall make application to the commissioner for a permit to report the tonnage of commercial fertilizer sold and shall pay to the North Carolina Department of Agriculture an inspection fee of twenty-five cents (25¢) per ton. The commissioner is authorized to require each such distributor to keep such records as may be necessary to indicate accurately the tonnage of commercial fertilizers sold in the State, and as are satisfactory to the commissioner. Such records shall be available to the commissioner, or his duly authorized representative, at any and all reasonable hours for the purpose of making such examination as is necessary to verify the tonnage statement and the inspection fees paid. Each registrant shall report monthly the tonnage sold to non-registrants on forms furnished by the commissioner. Such reports shall be made and inspection fees shall be due and payable monthly on the fifteenth of each month covering the tonnage and kind of commercial fertilizers sold during the past month. If the report is not filed and the inspection fee paid by the last day of the month it is due, the amount due shall bear a penalty of ten percent (10%), which shall be added to the inspection fee due and shall constitute a debt and become the basis of judgment against the securities or bond which may be required. If the report is not filed and the inspection fee paid within 60 days of the date due, or if the report or tonnage be false, the commissioner may revoke the permit. In order to guarantee faithful performance with the provisions of this subsection each manufacturer, importer, jobber, firm, corporation or person

shall, before being granted a permit to use the reporting system, deposit with the commissioner cash in the amount of one thousand dollars ($1,000) or securities acceptable to the commissioner of a value of at least one thousand dollars ($1,000) or shall post with the commissioner a surety bond in like amount, executed by some corporate surety company authorized to do business in North Carolina. The commissioner shall approve all such securities and bonds before acceptance.

Sec. 18. The General Assembly hereby finds and declares that it is in the public interest that the State regulate the activities of those persons engaged in the business of preparing, mixing, or manufacturing commercial fertilizers, in order to insure the manufacturer, distributor and consumer of the correct quantity and quality of all commercial fertilizer sold or offered for sale in this State. It shall therefore be the policy of this State to regulate the activities of those persons engaged in the business of preparing, mixing or manufacturing commercial fertilizer.

Sec. 19. Because legislation with regard to commercial fertilizer sold or offered for sale in this State must be adopted to complex conditions and standards involving numerous details with which the General Assembly cannot deal directly and in order to effectuate the purposes and policies of this Article, and in order to insure the manufacturer, distributor, and consumer of the correct quality and quantity of all commercial fertilizer sold or offered for sale in this State, the Board of Agriculture shall have the authority to make rules and regulations with respect to (1) the maximum chlorine guarantee permitted for tobacco fertilizer; (2) the maximum chlorine guarantee permitted in tobacco top dressers; (3) which grades of fertilizer may be branded top dressers; (4) the labeling of the grade of fertilizer when such fertilizer is sold in plain or unbranded bags; (5) the labeling requirements for all containers of liquid commercial fertilizer for direct application to the soil; (6) the bag sizes which may be used in the sale of commercial fertilizer; (7) the labeling requirements for packages containing a combination of any non-fertilizer material and mixed tobacco fertilizer; (8) registration and labeling requirements for grades and brands of fertilizer carrying any guarantee of boron; the tolerance allowances for the percentage of boron in fertilizer mixtures; (9) the required composition for boron-landplaster mixtures before they may be registered and sold for use on peanuts in this State; the labeling requirements for each container of such mixture; (10) the monetary penalties assessed for excesses or deficiencies of boron and all other minor elements above or below the tolerances allowed; (11) the registration and labeling of general crop grades and tobacco grades; (12) the method, and the time limitations for the reporting to the Commissioner of Agriculture of the tonnage of each grade of fertilizer shipped to each destination in the State by each manufacturer or firm having fertilizer registered in this State; (13) the required composition, before such mixtures may be registered and sold in this State, of fertilizer-pesticide, landplaster-pesticide, and fertilizer-landplaster-pesticide, when to be used for peanuts alone; (14) the labeling and bag requirements of fertilizer-landplaster-pesticide mixtures; (15) the standards and requirements which must be met before fertilizer-pesticide mixtures may be registered in this State. These requirements may include, but are not limited to, approval in North Carolina of both the pesticide and the fertilizer grades, approval of the mixture by the Board of Agriculture, and any labeling requirements; (16) the standards and requirements which must be complied

with before fertilizers-pesticides may, without registering the mixture, be mixed for direct application at the farmer's request; (17) requests for mixing any pesticide with fertilizer, for products not previously approved by the Board of Agriculture; (18) packaging requirements for fertilizer-pesticide mixtures sold either in bulk or in bags, such that dusting, spillage, sifting, or a loss of any fertilizer-pesticide mixture will not occur; (19) the percentages of nitrogen required to be in nitrogen solutions, before such solutions may be registered and sold in this State; (20) the labeling of fertilizer products to ascertain their compliance to the Fertilizer or Lime and Landplaster Law; (21) requesting substantiating data to back up claims made about a fertilizer product; registration may be denied if such data is not furnished; (22) the denial of approval of the registration of fertilizer products when such products will not, when used as directed, supply deficient needs of a plant; (23) safety requirements for the movement, handling and storage of fluid fertilizers; (24) standards and requirements for equipment and tanks for handling liquid fertilizer; (25) refusing registration as a result of information or recommendations from the director of research stations; (26) establishing minimum guarantees permissible for registering secondary elements and micronutrients.

Sec. 20. If any commercial fertilizer in the possession of the consumer is found by the commissioner to be short in weight, the registrant of said commercial fertilizer shall within 30 days after official notice from the commissioner pay to the consumer a penalty equal to four times the value of the actual shortage. The commissioner may in his discretion allow reasonable tolerance for short weight due to loss through handling and transporting.

Sec. 21. The commissioner shall publish at least annually, in such forms as he may deem proper, complete information concerning the sales of commercial fertilizers, together with a report of the results of the analyses based on official samples of commercial fertilizers sold or offered for sale within the State; such data on their production and use as he may consider advisable; provided, however, that the information concerning production and use of commercial fertilizers shall be shown separately for periods July 1st to December 31st and January 1st to June 30th of each year, and that no disclosure shall be made of the operations of any person.

Sec. 22. Nothing in this Article shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers or manufacturers who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers who have registered their brands as required by the provisions of this Article.

Sec. 23. Each person registering commercial fertilizers under this Article shall furnish the commissioner with a written statement of the tonnage of each grade of fertilizer sold by him in this State. This information shall be held in confidence by the commissioner. Said statement shall include all sales for the periods of July 1st to and including December 31st and of January 1st to and including June 30th of each year. The commissioner may, in his discretion, cancel the registration of any person failing to comply with this section if the above statement is not made within 30 days from date of the close of each period. The commissioner, however, in his discretion, may grant a reasonable extension of time. No information furnished under this section shall be disclosed in such a way as to divulge the operations of any person.

Sec. 24. Article 2 (North Carolina Fertilizer Law of 1947) of Chapter 106 of the General Statutes, is hereby repealed.

Sec. 25. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. B. 472 CHAPTER 304

AN ACT TO PROVIDE FOR USE OF TRANSPORTER PLATES BY HOUSE TRAILER OR MOBILE HOME MOVERS.

The General Assembly of North Carolina enacts:

Section 1. Part 5 of Article 3 of Chapter 20 of the General Statutes is hereby amended by adding a new section to be designated G.S. 20-79.3 and to read as follows:

"§ 20-79.3. *Transporter registration, house trailer and mobile home movers.*—Notwithstanding the provisions of G.S. 20-79.2 any person with authority from the Utilities Commission to move house trailers or mobile homes within this State may be issued 'transporter plates' as provided in G.S. 20-79.2 upon application and payment of the fees prescribed under G.S. 20-79.2(a)(3). Transporter plates issued pursuant to this section shall be used only on house trailers or mobile homes while being towed by a properly licensed vehicle."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1977.

H. B. 752 CHAPTER 305

AN ACT TO REQUIRE MAPS FILED IN ONSLOW COUNTY, PURSUANT TO G.S. 47-30, TO BE 18 INCHES BY 24 INCHES AND TO MAKE THE STATE MAPPING REQUIREMENTS APPLICABLE TO SAMPSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 47-30(a), all land maps presented to the Register of Deeds of Onslow County for recording shall hereafter be of a standard map size of 18 inches by 24 inches. This section shall be applicable to Onslow County only.

Sec. 2. G.S. 47-30(k) is amended by deleting the word "Sampson" from that subsection.

Sec. 3. Section 1 of this act shall become effective upon ratification. Section 2 of this act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 3rd day of May, 1977.

H. B. 822 **CHAPTER 306**

AN ACT TO AMEND G.S. 136-72 TO CLARIFY THE AUTHORITY FOR ESTABLISHING THE MAXIMUM SAFE LOAD CARRYING CAPACITY OF BRIDGES ON THE STATE HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 136-72 is hereby amended to read as follows:

"It shall be unlawful for any person, firm, or corporation to drive, operate or tow on any bridge on the State highway system, any vehicle or combination of vehicles with a gross weight exceeding the safe load carrying capacity established by the Board of Transportation and posted at each end of the said bridge."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1977.

H. B. 825 **CHAPTER 307**

AN ACT TO AUTHORIZE COUNTIES AND CITIES TO PROVIDE DEFENSE COUNSEL FOR MEMBERS OF VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS WHICH RECEIVE PUBLIC FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-97 is amended by changing the period at the end thereof to a comma and by adding the following: "and of any member of a volunteer fire department or rescue squad which receives public funds."

Sec. 2. G.S. 160A-167 is hereby amended by inserting after the words and punctuation "or former employee or officer," in line 2, the following: ", or any member of a volunteer fire department or rescue squad which receives public funds,".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1977.

H. B. 863 **CHAPTER 308**

AN ACT TO PROVIDE FOR ELECTION OF MEMBERS OF THE GOLDSBORO CITY BOARD OF EDUCATION AND TO FIX THEIR TERMS OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Individuals currently serving as members of the Goldsboro City Board of Education for the Goldsboro City School Administrative Unit shall hold terms of office hereby established as follows:

Robert W. Powell, George E. Wilson, Charles S. Norwood, Jr., and a vacancy to be filled as hereinafter provided for terms to expire November 1977.

Betty S. Wilkins, Charles E. Waller, L. Thomas Dortch, W. Harrell Everett, Jr., and Louis E. Marriner for terms to expire November 1979.

All terms shall run to the dates specified for the members as hereinabove set forth and until their successors are duly elected and qualified.

Sec. 2. From and after the effective date of this act, the Board of Education of the Goldsboro City School Administrative Unit (to be known as the Goldsboro City Board of Education) shall consist of nine members. At a special election to be held in the City of Goldsboro in November 1977, there shall be elected on a nonpartisan simple plurality basis pursuant to G.S. 163-279(1) four members to the Goldsboro City Board of Education who shall hold terms of four years commencing November 1977, and continuing until their successors are elected and qualified. At the time of the municipal election held in the City of Goldsboro in November 1979, there shall be elected on a nonpartisan simple plurality basis as set forth above five members of the Goldsboro City Board of Education who shall hold terms of four years commencing November 1979, and continuing until their successors are elected and qualified. Biennially thereafter, there shall be elected on a nonpartisan simple plurality basis as set forth above to the Goldsboro City Board of Education in elections held in the City of Goldsboro the number of members necessary to fill vacancies which shall arise during the calendar year of such election, it being understood that such members to be elected at subsequent elections shall hold terms of four years and until their successors are elected and qualified.

Sec. 3. Candidates for election to the Goldsboro City Board of Education shall file notices of candidacy in the same manner as presently provided for such notices to be filed by candidates for election to the Goldsboro Board of Aldermen. Ballots shall be prepared as in the case of preparation of ballots for aldermen, listing the names of the candidates who have filed for election to membership on the said Goldsboro City Board of Education, without reference to any party affiliation, and the said candidates shall be voted upon by qualified voters of the Goldsboro City School Administrative Unit. The registration and election shall be conducted insofar as practicable in accordance with the provisions of law relating to municipal primaries and elections applicable to the City of Goldsboro. All persons presently registered on voter registration records of Wayne County and who reside within the boundaries of the Goldsboro City School Administrative Unit shall be eligible to vote in the election as set forth in Section 2 above and shall not be required to reregister for such elections.

Sec. 4. If more than twice the number of candidates file for office than there are vacancies on the board to be filled, a primary election shall be held. The number of candidates equal to twice the number of vacancies to be filled who receive the highest number of votes in the primary election shall be certified as the only candidates whose names shall be placed on the ballot for the election. If not more than twice the number of candidates file for office than there are vacancies on the board to be filled, no primary shall be held as to such candidates and they shall be declared nominated and only their names shall be placed on the ballot for the election.

Sec. 5. The Wayne County Board of Elections shall canvass the primary and election returns and declare the results in the same manner and at the same time as a canvass is made for the primary and election returns for members of the Goldsboro Board of Aldermen as set out in the City Charter of the City of Goldsboro, and the General Statutes of North Carolina, and the candidates who are elected to the Goldsboro City Board of Education shall take office at the first regular meeting of the Goldsboro City Board of Education held following

the election, at which time the newly elected members shall qualify by taking the oath of office and assuming the duties and responsibilities of such office. A failure to qualify by taking the oath of office within 30 days after the time fixed for such qualification shall constitute a vacancy which shall be filled as provided in Section 7 herein. Any additional costs of conducting primaries and elections incurred in connection with the election of members to the Goldsboro City Board of Education shall be paid by said board to the Wayne County Board of Elections.

Sec. 6. The members of the Goldsboro City Board of Education shall, at the first meeting held in December of each year, elect one of their members to serve as chairman for a term of one year and until his successor is elected and qualified.

Sec. 7. Any vacancy occurring on the said Goldsboro City Board of Education by reason of death, resignation, or otherwise, shall be filled by a majority vote of the remaining members of the Goldsboro City Board of Education for the unexpired term. From and after the effective date of this act the Goldsboro City Board of Education is empowered to fill the vacancy now existing for the term which expires November 1977, at which time such vacancy shall be filled by election in the manner herein provided for a regular four-year term.

Sec. 8. Candidates shall be residents of the Goldsboro City Administrative Unit, and if any member of the Goldsboro City Board of Education shall remove his residence from the boundaries of the district, such removal shall constitute a vacancy on the board to be filled as provided in Section 7 herein.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1977.

H. B. 85 CHAPTER 309

AN ACT TO AMEND G.S. CHAPTER 105 TO REMOVE SEX DISCRIMINATION FROM CERTAIN REVENUE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-149(a)(2) as it appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D is rewritten to read as follows:

"(2) In the case of a married couple living together, two thousand dollar ($2,000) exemption to the spouse having the larger adjusted gross income and one thousand dollar ($1,000) exemption to the other spouse; provided that the spouse having the larger income may by agreement with the other spouse allow that spouse to claim the two thousand dollar ($2,000) exemption in which case the spouse having the larger adjusted gross income must file a return and claim only one thousand dollar ($1,000) exemption."

Sec. 2. G.S. 105-149(a)(2a) is amended by deleting the words "married woman living with her husband" and substituting therefor the words "married individual living with his or her spouse".

Sec. 3. G.S. 105-149(a)(3) is rewritten to read as follows:

"(3) In the case of a married couple living together, the spouse who does not claim the two thousand dollar ($2,000) exemption as provided in (a)(2), one thousand dollar ($1,000)."

Sec. 4. G.S. 105-149(a)(6) is rewritten to read as follows:

"(6) In the case of an individual who has died during the income year, the same exemptions which would have been allowable to such individual under this subsection had the individual lived the entire income year."

Sec. 5. This act shall become effective for taxable years beginning on and after January 1, 1977.

In the General Assembly read three times and ratified, this the 4th day of May, 1977.

H. B. 677 CHAPTER 310

AN ACT TO AMEND CHAPTER 161 OF THE GENERAL STATUTES TO INCREASE THE FEE FOR FURNISHING CERTIFIED COPIES OF BIRTH AND DEATH CERTIFICATES AND MARRIAGE LICENSES FROM ONE DOLLAR TO TWO DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-10(a)(8) is hereby amended by deleting the words "one dollar ($1.00)" and inserting in lieu thereof the words "two dollars ($2.00)".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 4th day of May, 1977.

S. B. 258 CHAPTER 311

AN ACT TO REQUIRE A FUNERAL DIRECTOR'S LICENSE TO RELOCATE GRAVES.

The General Assembly of North Carolina enacts:

Section 1. North Carolina General Statutes 65-13(f) is hereby amended, by adding the following sentence after the existing sentence:

"If under the authority of this Chapter disinterment, removal, and reinterment is effected by the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of American or any agency thereof, any electric power or lighting company, then such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed as a 'Funeral Director' or a 'Funeral Service Licensee' under the provisions of Article 13A of Chapter 90 of the North Carolina General Statutes."

Sec. 2. This act shall not affect grave removals for which contracts have been entered into prior to the effective date of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1977.

S. B. 286

CHAPTER 312

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF ROANOKE RAPIDS AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Roanoke Rapids, as established in accordance with G.S. 118-9, hereinafter called the board of trustees, shall create and maintain a separate fund to be called the Roanoke Rapids Firemen's Supplemental Retirement Fund, hereinafter called the supplemental retirement fund, and shall maintain books of account for such fund separate from the books of account of the Firemen's Local Relief Fund of the City of Roanoke Rapids, hereinafter called the local relief fund. The board of trustees shall pay into the supplemental retirement fund the funds prescribed by this act.

Sec. 2. Transfers of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Roanoke Rapids shall:

(a) prior to January 1, 1978, transfer to the supplemental retirement fund all funds, including earnings on investments, of the local relief fund in excess of ten thousand dollars ($10,000);

(b) in each subsequent calendar year, and within 30 days after receipt from the city treasurer of the annual funds paid to the local relief fund by authority of G.S. 118-5, transfer to the supplemental retirement fund such funds;

(c) at any time within six months when the amount of funds in the local relief fund shall, by reason of disbursements authorized by G.S. 118-7, be less than ten thousand dollars ($10,000), transfer from the supplemental retirement fund to the local relief fund an amount sufficient to maintain in the local relief fund the sum of ten thousand dollars ($10,000);

(d) as soon as practicable after January 1 of each year, but in no event later than July 1, divide the income earned in the preceding calendar year upon investments of funds belonging to the local Firemen's Relief Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental retirement benefits.

(a) Each retired fireman of the city who has previously retired with 20 years service or more as a city fireman shall be entitled to and shall receive in each calendar year following the calendar year in which he retires the following supplemental retirement benefits, provided in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars ($600.00).

(1) one share for each full year of service as a full-time and fully paid fireman of the city;

(2) one-third of one share for each full year of service as a volunteer fireman of the city.

(b) Any former fireman of the city, either full-time and fully paid or volunteer, who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, shall nevertheless be entitled to such

benefits in any calendar year in which the board of trustees makes the following written findings of fact:

(1) that he initially retired from his position as a fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the city a position of employment, the normal duties of which he is capable of performing; and

(4) that, since the preceding January 1, at least two physicians licensed to practice medicine in North Carolina have certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(5) that there remains unavailable to him in the fire department or in any other department of the city a position of employment, the normal duties of which he is capable of performing; provided, that the board of trustees, after initially making the findings of fact specified in (1), (2), (3), and (4) of this subsection, need not specify such findings in subsequent calendar years.

Sec. 4. Investment of funds. The board of trustees is hereby authorized to invest any funds, either of the local relief fund or of the supplemental retirement fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-21, and is hereby directed to invest all of the funds of the supplemental retirement fund in one or more of such investments; provided, that investment in certificates of deposit or time deposits in any bank or trust company, or in shares of any building and loan or savings and loan association, shall not exceed the amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless such deposits or investments in shares are secured in the manner provided by G.S. 159-30.

Sec. 5. Acceptance of gifts. The board of trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the supplemental retirement fund.

Sec. 6. Bond of treasurer. The board of trustees shall bond the treasurer of the local relief fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees shall pay the premiums of the bond of the treasurer.

Sec. 7. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1977.

H. B. 328 CHAPTER 313

AN ACT TO AMEND G.S. 20-4.01 TO OMIT CARPOOLS AND VANPOOLS FROM THE CLASSIFICATION OF "FOR-HIRE PASSENGER VEHICLES."

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(27)(b), as it appears in the 1975 Cumulative Supplement to 1975 Replacement Volume 1C, is rewritten to read as follows:

"b. For-hire passenger vehicles - Vehicles transporting persons for compensation. This classification shall not include vehicles operated as ambulances; vehicles (except those with wheelbases of 140 inches or more) operated by the owner where the cost of operation is shared by the passengers; vehicles (except those with wheelbases of 140 inches or more) operated by any bona fide employee for the transportation of other bona fide employees and himself to and from the place(s) of their regular employment and operated for compensation only for one round trip per day to and from the work location(s); vehicles transporting students for the public school system under contract with the State Board of Education; or vehicles leased to the United States of America or any of its agencies on a nonprofit basis."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1977.

H. B. 385 CHAPTER 314

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ESTABLISH RULES AND REGULATIONS REGARDING THE QUALIFICATIONS OF TRANSPORTATION SUPERVISORS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the General Statutes is hereby amended by adding thereto a new Section 115-181.1 to read as follows:

"§ 115-181.1. *Transportation supervisors.*—The State Board of Education shall from time to time adopt such rules and regulations with regard to the qualifications of persons employed by local boards of education as chief mechanic or supervisor of transportation as it shall deem necessary or desirable for the purpose of assuring the proper maintenance and safety of school buses. A local board of education shall not employ any person as chief mechanic or supervisor of transportation if that person does not meet the qualifications established by the State board."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1977.

H. B. 516

CHAPTER 315

AN ACT TO AMEND G.S. 105-152 TO INCLUDE THE EXEMPTIONS FOR THE BLIND AND PERSONS 65 AND OLDER IN ORDER TO DETERMINE WHO SHALL FILE AN INCOME TAX RETURN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-152(a)(1) as the same appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes, is hereby rewritten to read as follows:

"(1) Every resident or nonresident who has a gross income during the income year which is in excess of the personal exemption to which he or she is entitled under the provisions of G.S. 105-149(a), without the inclusion of the exemptions for dependents provided under subdivision (5), any part of which is subject to taxation in this State."

Sec. 2. This act shall be effective for income tax years beginning on and after January 1, 1977.

In the General Assembly read three times and ratified, this the 5th day of May, 1977.

H. B. 278

CHAPTER 316

AN ACT TO AMEND G.S. 128-21 TO RENDER CERTAIN FULL-TIME PAID VOLUNTEER FIREMEN ELIGIBLE FOR MEMBERSHIP IN THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-21(10), as the same appears in Volume 3B of the 1974 Replacement Volume to the General Statutes of North Carolina, is hereby amended by adding the following sentence immediately before the last sentence thereof:

"'Employee' shall also mean all full-time, paid firemen who are employed by any fire department that serves a city or county or any part thereof and that is supported in whole or in part by municipal or county funds."

Sec. 2. G.S. 128-21(11), as the same appears in Volume 3B of the 1974 Replacement Volume to the General Statutes of North Carolina, is hereby amended by adding to the end thereof the following sentence:

"'Employer' shall also mean any fire department that serves a city or county or any part thereof, and that is supported in whole or in part by municipal or county funds."

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 362 CHAPTER 317

AN ACT TO AMEND G.S. 135-4(l) OF THE GENERAL STATUTES RELATING TO PURCHASE OF DEPENDENT SCHOOLS SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4(l), as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by adding the following paragraph:

"Notwithstanding the foregoing provisions, any member may, upon completion of 10 years of current membership service, purchase Federal School, Overseas Dependent Schools, or Military Dependent Schools service, or, while on an approved leave of absence from employment with the State of North Carolina, foreign service in the International Cooperation Administration or the Agency for International Development upon the same terms as in the preceding paragraph for out-of-state service."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 435 CHAPTER 318

AN ACT TO AMEND THE GENERAL STATUTES RELATING TO PARTICIPATION OF REGIONAL PUBLIC LIBRARIES IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by deleting therefrom G.S. 128-36.1 which reads as follows:

"§ 128-36.1. *Participation of employees of regional library.*—Under such rules and regulations as the board of trustees shall establish and promulgate, the boards of county commissioners of any group of counties operating a regional library may elect that employees of such library may be members of the North Carolina Local Governmental Employees' Retirement System to the extent of that part of their compensation paid by the various counties operating said regional library."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 479 CHAPTER 319

AN ACT TO AMEND G.S. 20-183.10 RELATIVE TO WEIGHT STATION PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.10 as same appears in the 1975 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes is hereby amended by inserting immediately after the word "officer" and immediately before the word "in" appearing in line 6, the following words "for the purpose of enforcing the provisions of this Chapter and".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 596 CHAPTER 320

AN ACT DECLARING THAT JUDGMENTS OF DIVORCE ENTERED BY COURTS OF COMPETENT JURISDICTION WITHOUT CONCLUSIONS OF LAW THAT THE PLAINTIFF WAS ENTITLED TO AN ABSOLUTE DIVORCE ARE VALID AND OF FULL FORCE AND EFFECT.

The General Assembly of North Carolina enacts:

Section 1. Any judgment of divorce which has been entered prior to April 1, 1977, by a court of competent jurisdiction within the State of North Carolina without a conclusion of law that the plaintiff was entitled to an absolute divorce, but which is proper in all other respects, is hereby rendered valid and of full force and effect.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 637 CHAPTER 321

AN ACT TO AMEND CHAPTER 717 OF THE 1975 SESSION LAWS RELATIVE TO THE NOMINATION AND ELECTION OF MEMBERS OF THE WAKE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 6(b) of Chapter 717 of the 1975 Session Laws is rewritten to read as follows:

"Sec. 6(b). All terms of office for each member of the Wake County Board of Education nominated and elected in 1977 shall begin on the first Monday in December following the 1977 election and expire as follows:

The term of office for seats 1, 2, 3, 4 and 5 shall expire on the first Monday in December of 1981.

The term of office for seats 6, 7, 8 and 9 shall expire on the first Monday in December of 1979."

Sec. 2. Section 7 of Chapter 717 of the 1975 Session Laws is amended by rewriting lines 1, 2 and 3 to read as follows:

"In the year 1977, and in each election thereafter, members of the Wake County Board of Education shall be elected by the nonpartisan primary method of election as hereinafter provided:".

Sec. 3. Section 7(b) of Chapter 717 of the 1975 Session Laws is rewritten to read as follows:

"Sec. 7(b). A candidate seeking nomination for election to the Wake County Board of Education shall file notice of candidacy with the Wake County Board of Elections not later than 12:00 noon on the Friday preceding the fifth Saturday and not earlier than 12:00 noon on the Friday preceding the eighth Saturday before the primary election in which he seeks to run."

Sec. 4. Section 8 of Chapter 717 of the 1975 Session Laws is amended by rewriting the first sentence to read as follows:

"After the 1977 election, the vacancies occurring in the membership of the Wake County Board of Education shall be filled by nomination and election as

the said terms of the members expire, and all such members so elected shall hold office for terms of four years."

Sec. 5. All laws and clauses of laws in conflict with this act are repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 670 CHAPTER 322

AN ACT TO AMEND THE CHARTER OF THE CITY OF FAYETTEVILLE CONCERNING INSURANCE DEATH BENEFITS OF CITY EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Fayetteville, as revised by Chapter 28 of the Private Laws of 1925 is hereby amended by rewriting the 24th enumerated power set out in Section 1 of Article 2 to read as follows:

"To create and administer a special fund for the relief of indigent and helpless members of the police and fire departments who have become superannuated, disabled, or injured in such service, and receive donations and bequests in aid of such fund and provide for its permanence and increase, and to prescribe and regulate the conditions under which, and the extent to which, the same shall be used for the purpose of such relief."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 692 CHAPTER 323

AN ACT TO PERMIT EMPLOYEES OF THE VILLAGE OF PINEHURST TO PARTICIPATE IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 993 of the 1949 Session Laws is hereby amended on line 4 by inserting after the word "constables" the words "and personnel".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 724 CHAPTER 324

AN ACT TO AUTHORIZE THE TOWN OF CARRBORO TO PURCHASE INSURANCE TO PROTECT ITS OFFICERS, AGENTS OR EMPLOYEES AGAINST LIABILITY FOR DAMAGES CAUSED BY THEIR WRONGFUL ACTS OR OMISSIONS PERFORMED WITHIN THE SCOPE OF THEIR DUTIES.

The General Assembly of North Carolina enacts:

Section 1. The Town of Carrboro is hereby authorized to contract to insure any of its officers, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against

absolute liability for damage to person or property caused by an act or omission of any of its officers, agents, or employees when acting within the scope of their authority in the course of their employment.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 761 CHAPTER 325

AN ACT TO AMEND CHAPTER 591 OF THE 1953 SESSION LAWS TO ALLOW THE REGISTRATION OF MAPS MADE OF DIFFERENT MATERIALS IN CASWELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 591 of the 1953 Session Laws is hereby amended to read as follows:

"Section 1. In order to permanently preserve all maps, plats, blueprints or other drawings of land required or desired to be recorded in the office of the Register of Deeds of Caswell County, all such maps, plats, blueprints, or other drawings so offered for registration must be reproducible, and must be prepared upon cloth, linen, film, mylar, chromoflex or other permanent material deemed reproducible and acceptable by the Register of Deeds of Caswell County."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 784 CHAPTER 326

AN ACT TO AMEND THE CHARTER OF THE TOWN OF PINEBLUFF RELATING TO THE TERM OF THE MAYOR AND TOWN COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 274, Private Laws of 1913, as amended by Chapter 109, Private Laws of 1915, and Chapter 966, Session Laws of 1969, is hereby rewritten to read:

"Sec. 3. Beginning with the regular municipal election to be held in the Town of Pinebluff in November, 1977, the mayor shall be elected for a term of four years, and the five commissioners shall be elected for staggered terms as herein provided. The two candidates for commissioner receiving the highest number of votes shall be elected for terms of four years, and the three candidates for commissioner receiving the next highest number of votes shall be elected for two years. Thereafter, as the term of each member expires, his successor shall be elected for a term of four years."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

H. B. 139 CHAPTER 327

AN ACT TO CLARIFY THE PROVISIONS OF THE MACHINERY ACT RELATING TO THE DATES AS OF WHICH ABSTRACTS, PAYMENTS AND APPEALS ARE FILED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-311 is hereby amended by adding at the end thereof the following:

"For the purposes of this Subchapter, abstracts submitted by mail shall be deemed to be filed as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark, or if the postmark is not affixed by the United States Postal Service, the abstracts shall be deemed to be filed when received in the office of the tax supervisor. In any dispute arising under this Subchapter, the burden of proof shall be on the taxpayer to show that the abstract was timely filed."

Sec. 2. G.S. 105-360 is hereby amended by adding a new subsection (d) at the end thereof to read as follows:

"(d) For the purposes of computing discounts and interest, tax payments submitted by mail shall be deemed to be received as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark or if the postmark is not affixed by the United States Postal Service, the tax payment shall be deemed to be received when the payment is received in the office of the tax collector. In any dispute arising under this subsection, the burden of proof shall be on the taxpayer to show that the payment was timely made."

Sec. 3. G.S. 105-324 is hereby amended by adding a new subsection (d) at the end thereof to read as follows:

"(d) Appeals to the Property Tax Commission shall be deemed to be filed when they are received in the office of the Commission."

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 163 CHAPTER 328

AN ACT TO AUTHORIZE THE CITY OF WILSON TO ENACT AND ENFORCE ORDINANCES REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES ON PUBLIC AREAS AND RIGHTS-OF-WAY AND FOR THE PRUNING, TREATMENT AND REMOVAL OF TREES ON PRIVATE PROPERTY WHICH ENDANGER PUBLIC HEALTH, SAFETY OR WELFARE WITHIN THE CITY OF WILSON, AND THE CITY OF GREENVILLE.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 160A of the General Statutes is amended by inserting a new section therein as follows:

"§ 160A-196. *Regulating trees.*—A city may by ordinance regulate the planting, maintenance, and removal of trees on public property and rights-of-way. In order to protect and conserve trees on public property and rights-of-way, a city may by ordinance provide for the treatment or removal of diseased trees and shrubs on private property and may regulate the digging of trenches or

other activities on private property that endanger such trees. A city may also by ordinance provide for the trimming or removal of trees on private property when they obscure street lights, interfere with utility lines, or constitute a hazard to pedestrian or vehicular traffic. Ordinances adopted under authority of this section must be the subject of a public hearing before final action is taken."

Sec. 2. This act shall apply to the following cities and towns: Wilson, and Greenville.

Sec. 3. This act becomes effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 402 CHAPTER 329

AN ACT TO PROVIDE FULL SALARY FOR TWO YEARS FOR STATE HIGHWAY PATROLMEN INJURED IN LINE OF DUTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-185 as the same appears in the 1975 Replacement Volume 1C of the General Statutes of North Carolina is hereby amended by rewriting subsection (b) to read as follows:

"The salary of any officer or member of the State Highway Patrol shall be paid to him so long as his employment as such officer or member of the patrol shall continue, notwithstanding his total or partial incapacity to perform any duties to which he may lawfully be assigned by the commanding officer of the State Highway Patrol, if such incapacity be the result of an injury by accident or occupational disease arising out of and in the course of the performance by him of his official duties; Provided, however, that if such incapacity continue for more than two years from its inception, such officer or member of the State Highway Patrol shall during the further continuance of such incapacity be subject to the provisions of Chapter 97 of the General Statutes. Salary paid to an officer or member of the State Highway Patrol pursuant to this subsection shall cease upon the resumption of his regularly assigned duties, retirement, resignation, or death, whichever first occurs; Provided, however, that temporary return to duty shall not prohibit payment of salary to such officer or member of the State Highway Patrol provided the officer or member submits to the commanding officer of the State Highway Patrol prior to the beginning of each subsequent period of disability during the two-year period medical evidence that such disability is directly related to the original cause of incapacity; Provided further, that officers or members of the State Highway Patrol, notwithstanding the provisions of subsection (c) of this section, shall during the two-year period salary is paid pursuant to this subsection be subject to the provisions of G.S. 97-27. All payments of salary provided for in this subsection shall be made at the same time and in the same manner as other salaries are paid to members of the State Highway Patrol."

Sec. 2. G.S. 20-185 as the same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by rewriting subsection (c) to read as follows:

"The provisions of subsection (b) of this section shall be in lieu of all compensation provided for the first two years of such incapacity by G.S. 97-29 and G.S. 97-30, but shall be in addition to any other benefits or compensation to

which such officer or member of the State Highway Patrol shall be entitled under the provisions of the Workmen's Compensation Act. The provisions of G.S. 97-24 will commence at the end of the two-year period salary is paid under subsection (b) of this section to any officer or member of the State Highway Patrol."

Sec. 3. G.S. 20-185(e) as the same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by deleting the words "Commissioner of Motor Vehicles" and "Commissioner" wherever they appear and inserting in lieu thereof the words "commanding officer of the State Highway Patrol."

Sec. 4. This act shall become effective upon ratification and shall apply to all injuries occurring on or after November 1, 1975.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 428 CHAPTER 330

AN ACT TO AMEND CHAPTER 473 OF THE SESSION LAWS OF 1975 RELATING TO THE CHARTER OF THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Chapel Hill, as the same appears in Chapter 473, Session Laws of 1975, is hereby amended as follows:

Amend Chapter II by adding at the end of Article I a new section to read:

"Sec. 4.4. Town clerk. In addition to the powers and duties authorized by general law, the town clerk is authorized to administer oaths of office to the Mayor and Board of Aldermen of the Town of Chapel Hill and in all proceedings before the Board of Aldermen."

Amend Article 2 of Chapter V by adding at the end a new section to read:

"Sec. 5.18. General extraterritorial jurisdiction authority. In addition to the specific areas described in this Charter, the town is authorized to exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes of North Carolina within the territorial jurisdiction as defined by G.S. 160A-360."

Amend Article 2 of Chapter V by adding a new section to read:

"Sec. 5.23. Removal of trees from public and private property. Town is authorized to adopt ordinances after holding of a public hearing thereon, to regulate removal of trees from public and private property within the town in order to preserve, protect, and enhance one of the most valuable natural resources of the community, and to protect the health, safety, and welfare of its citizens."

Amend Chapter V by adding a new Article at the end to read:

"ARTICLE 4.

"Discrimination in the Sale or Rental of Private and Public Housing.

"Sec. 5.25. Town is authorized to adopt ordinance designated to insure that all housing opportunities in the Town of Chapel Hill shall be equally available to all persons without regard to race, color, religion, sex or national origin. Such ordinances may regulate or prohibit any act, practice, activity or procedure related directly or indirectly to the sale or rental of public or private housing which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons, without regard to race, color, religion, sex, or

national origin. Such ordinances may provide that violations constitute a criminal offense; may subject the offender to civil penalties; may provide that the town enforce the ordinances by application to the General Court of Justice for appropriate equitable remedies including mandatory and prohibitory injunctions and orders of abatement.

"Sec. 5.5. Special parking permits. Town is authorized to issue special parking permits, which permit the holder thereof to park a vehicle displaying such permit at a location on a public street in residential areas where the parking is otherwise prohibited. Such permit shall be issued only after the board has adopted a resolution finding and determining that there is no practical method by which said vehicle may be parked on the property of the resident."

Amend Article 1 of Chapter V by adding a new section at the end to read:

"Sec. 5.6. Bikeways. Town is authorized to develop and adopt regulations concerning the use of bicycles within the town limits and the establishment of bikeways (thoroughfares suitable for bicycles) on town streets which may exist within the right-of-way of other modes of transportation such as highways or along separate and independent corridors. Such regulations may include the establishment of traffic regulations for bicycles traveling on designated bikeways different than those established for other types of vehicular traffic including the establishment of two-way bicycle traffic lanes on existing roadways."

Amend Article 2 of Chapter VI by adding a new section to read:

"Sec. 6.12. Street improvements when petition unnecessary, assessment of costs. Notwithstanding other provisions of this Charter or of any other laws, whenever there is an unimproved portion of a continuous street between improved portions thereof, or from an improved portion of said street to an improved street or where there is an unimproved street between improved parallel streets, or where a street has been paved with curb and gutter on one side of the street, and not on the other, and a majority of the owners owning a majority of the lineal footage of property abutting the street or unimproved portion thereof, are unwilling or fail to petition for its improvements, and the board of aldermen shall find by a personal inspection by each member of the board that the public interest requires that the paving and improvement of said street is necessary by reason of heavy traffic, safety, or is necessary in the public interest, the board of aldermen may, without petition, order the making of such improvement and the assessment of the cost thereof against abutting property in the same manner as such assessment would be made upon petition, and in the event only one side of a street is to be improved, such assessment may be made against the property owners adjoining said side only. Before any order is made requiring such street improvement under the provisions of this section, the board of aldermen of the town shall give at least 10 days' written notice of such proposed action to each owner of property to be assessed of a public hearing to be held by the board of aldermen for the purpose of considering such orders at which all persons to be affected by said order shall be given the opportunity to be heard.

In ordering improvements without a petition and in assessing the costs thereof under authority of this section, the board of aldermen shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes or any statute amending or replacing it, except those provisions relating to the petition of property owners and the sufficiency thereof. The

effect of the acts of levying and confirming assessments under authority of this section shall, for all purposes, be the same as if the assessments were levied and confirmed under authority of and pursuant to Article 10, Chapter 160A of the General Statutes or any statute amending or replacing it."

Sec. 2. The Charter of the Town of Chapel Hill, as the same appears in Chapter 473, Session Laws of 1975, is hereby amended by deleting Section 2.2 of Chapter II.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 464 CHAPTER 331

AN ACT TO GRANT THE CITY OF GREENVILLE ADDITIONAL POWERS OF ASSESSMENTS.

The General Assembly of North Carolina enacts:

Section 1. In addition to any authority which is now or may hereafter be granted by general law to the City of Greenville for making street improvements, the city council is hereby authorized to make street improvements and to assess the costs thereof against abutting property owners in accordance with the provisions of this act.

Sec. 2. The city council may order street improvements and assess the costs thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon findings of fact by the council that:

(1) such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(2) it is in the public interest to connect two streets or portions of a street already improved, or

(3) it is in the public interest to widen a street, or part thereof, that is already improved. However, assessments for widening any street, or portion of street, without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standard established by the city's thoroughfare or major street plan for the particular street, or part thereof to be widened and improved, or

(4) such street, or part thereof, is in need of repair or pavement and it is in the public interest to make such improvements.

Sec. 3. For the purpose of this act, the term "street improvement" shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right of way, and the construction or reconstruction of curbs, gutters, and street drainage systems.

Sec. 4. In addition to any authority which is now or may hereafter be granted by general law to the City of Greenville for making sidewalk improvements, the city council is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the city, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or

bases employed, the council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

Sec. 5. In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of this act, the city council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

Sec. 6. The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

Sec. 7. This act shall be in addition to and not in derogation of any other powers already held by general laws or otherwise.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 685

CHAPTER 332

AN ACT TO AMEND G.S. 148-19 TO DIRECT THE COMMISSION FOR MENTAL HEALTH SERVICES TO PRESCRIBE STANDARDS FOR THE DELIVERY OF MENTAL HEALTH SERVICES TO INMATES IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-19 is hereby amended by adding a new subsection at the end of that section to be designated as subsection (d) and to read as follows:

"(d) The Commission for Mental Health Services shall prescribe standards for the delivery of mental health services to inmates in the custody of the Department of Correction. The Commission for Mental Health Services shall give the Secretary of Correction an opportunity to review and comment on proposed standards prior to promulgation of such standards; however, final authority to determine such standards remains with the commission. The Secretary of the Department of Human Resources shall designate an agency or agencies within the Department of Human Resources to monitor the implementation of such standards by the Department of Correction. The Secretary of Human Resources shall send a written report on the progress which the Department of Correction has made on the implementation of such standards to the Governor, the Lieutenant Governor, and the Speaker of the House. Such reports shall be made on an annual basis beginning January 1, 1978."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 757 **CHAPTER 333**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GARNER AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Garner is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF GARNER.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. Incorporation. The Town of Garner, North Carolina in the County of Wake, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Garner', hereinafter at times referred to as the 'town'.

"Sec. 1.2. Powers. The Town of Garner shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the Town of Garner specifically or upon municipal corporations generally by this charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate limits. The corporate limits of the Town of Garner shall be those existing at the time of ratification of this charter, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the town, showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the town shall be made.

"ARTICLE II.

"MAYOR AND BOARD OF ALDERMEN.

"Sec. 2.1. Governing body. The mayor and board of aldermen, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and board may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

"Sec. 2.2. Mayor; terms of office; duties. The mayor shall be elected by and from the qualified voters of the town for a term of two years, in the manner provided by Article III of this charter; provided, the mayor shall serve until his successor is elected and qualified. The mayor shall be the official head of the town government, shall preside at all meetings of the board of aldermen, and shall have the powers and duties of mayor as prescribed by this charter and the General Statutes. The mayor shall have the right to vote on matters before the board only where there is an equal number of votes in the affirmative and in the negative.

"Sec. 2.3. Board of aldermen; terms of office. The board of aldermen shall be composed of five members, each of whom shall be elected for terms of two years, in the manner provided by Article III of this charter; provided, board members shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor pro tempore. In accordance with applicable State laws, the board of aldermen shall appoint one of its members to act as mayor pro tempore

to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

"Sec. 2.5. Meetings of the board. In accordance with applicable State laws, the board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

"Sec. 2.6. Ordinances and resolutions. The adoption, amendment, repeal, pleading, or proving of town ordinances and resolutions shall be in accordance with applicable provisions of the General Statutes of North Carolina not inconsistent with this charter. Except as otherwise provided by law, all ordinances shall become effective upon adoption; provided, an ordinance may, by its own terms, specify some other time upon which it shall take effect. The enacting clause of all town ordinances shall be: 'Be it ordained by the board of aldermen of the Town of Garner'.

"Sec. 2.7. Voting requirements; quorum; emergency measures. Official action of the board shall, except as otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the board, is present. Vacant seats are to be subtracted from the normal board membership to determine the actual membership.

An affirmative vote of at least four-fifths of the actual membership of the board shall be necessary to pass or adopt any emergency measure. An emergency measure, for the purposes of this section, shall be defined as an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, and one in which an emergency situation is set forth and defined in a preamble thereto. It is the intention of the town that no situation shall be declared an emergency by the board except under a strict application of the provisions of this section.

"Sec. 2.8. Qualifications for office; vacancies; compensation. The compensation of board members, the filling of vacancies on the board, and the qualifications of board members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. Regular municipal elections; conduct. Regular municipal elections shall be held in the town every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and members of the board shall be elected according to the nonpartisan plurality election method.

"Sec. 3.2. Election of the mayor. At the regular municipal election in 1977, and every two years thereafter, there shall be elected a mayor to serve a term of two years. The mayor shall be elected by the qualified voters of the town voting at large.

"Sec. 3.3. Election of board members. At the regular municipal election in 1977 and every two years thereafter, there shall be elected, by the qualified voters of the town, five board members to serve terms of two years each.

"ARTICLE IV.
"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. Form of government. The town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Town manager. The board of aldermen shall appoint a town manager who shall be the administrative head of town government, and who shall be responsible to the board for the proper administration of the affairs of the town. The town manager shall hold office at the pleasure of the board of aldermen, and shall receive such compensation as the board shall determine. In exercising his duties as chief administrator, the manager shall:

A. Appoint and suspend or remove all town officers and employees not elected by the people, except the town attorney and those whose appointment or removal is otherwise provided for by law, in accordance with such general personnel rules, regulations, policies or ordinances as the board may adopt.

B. Report to the board of aldermen each appointment or removal of an officer or employer at the next board meeting following such appointment or removal.

C. Direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the board, except as otherwise provided by law.

D. Attend all meetings of the board, unless excused therefrom, and recommend any measures that he deems expedient.

E. Prepare and submit the annual budget and capital program to the board.

F. Keep the board fully advised as to the financial condition of the town and annually submit to the board, and make available to the public, a complete report on the finances and administrative activities of the town at the end of the fiscal year.

G. Make any other reports that the board may require concerning the operation of the town departments, offices and agencies subject to his direction and control.

H. Perform any other duties that may be required or authorized by the board, or as required by law.

"Sec. 4.3. Town attorney. The board of aldermen shall appoint a town attorney who shall be licensed to engage in the practice of law in the State of North Carolina. Upon request by the board of aldermen, it shall be the duty of the town attorney to defend suits against the town; to advise the mayor, board of aldermen and other town officials with respect to the affairs of the town; to draft legal documents relating to the affairs of the town; to inspect and pass upon agreements, contracts, franchises and other instruments with which the town may be concerned; to attend meetings of the board of aldermen, and to perform other duties as the board may direct.

"Sec. 4.4. Town clerk. The town manager shall appoint a town clerk to keep a journal of the proceedings of the board, to maintain in a safe place all records and documents pertaining to the affairs of the town, and to perform such other duties as may be required by law or as the board of aldermen may direct.

"Sec. 4.5. Town finance officer. The town manager shall appoint a town finance officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. Town tax collector. The town manager shall appoint a town tax collector to collect all taxes, licenses, fees and other revenues accruing to the

town, subject to the General Statutes, the provisions of this charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. Consolidation of functions. The board of aldermen may provide for the consolidation of any two or more positions of town manager, town clerk, town tax collector and town finance officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other administrative officers and employees. Consistent with applicable State laws, the board of aldermen may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"ARTICLE V.

"PUBLIC IMPROVEMENTS.

"Sec. 5.1. Assessments for street and sidewalk improvements; petition unnecessary. A. In addition to any authority which is now or hereafter may be granted by general law to the town for making street improvements, the board of aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

B. The board of aldermen may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the board as a fact:

(1) that the street improvement project does not exceed 2,000 linear feet; and

(2) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements; or

(3) that it is in the public interest to connect two streets, or portions of a street already improved; or

(4) that it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

C. For the purpose of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

D. In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the board is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners,

according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the board of aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the board shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 5.2. Establishment of proposed street lines. A. Whenever, in the opinion of the board of aldermen, it is in the best interest of the town to do so, the board may make provision for the ultimate widening or extension or both of existing streets and for opening of new streets, and for the gradual acquisition of the lands necessary for such improvements, in accordance with the procedure established by this section.

B. Platting of proposed street lines. From and after the time of adoption of a major street plan by the board of aldermen and the board of transportation pursuant to provisions of G.S. 136-66.2, the board shall have power to request, make, or cause to be made, from time to time, surveys for the exact locating of the lines of new, extended, widened, or narrowed streets and highways in the whole or any portion of the town and the area within its outside zoning and subdivision control jurisdiction. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys, and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or plats of the area or areas thus surveyed shall be prepared on which are indicated the locations of the lines recommended as the planned or mapped lines of future streets, street extensions, street widenings, or street narrowings. The preparation of such plat or plats shall not in and of itself constitute or be deemed to constitute the opening or establishment of any streets or the taking or acceptance of any land for street purposes.

C. Adoption of official map; hearing; notice. Following the preparation of such plats, the board may officially adopt a map or maps of planned new streets and highways, extensions, widenings, narrowings, or vacations of streets within the town and the territory within its extraterritorial zoning and subdivision control jurisdiction. Before taking any such action, the board shall hold a public hearing thereon, notice of the time and place of which shall have been given once a week for two successive weeks in a newspaper having general circulation in the town, and by posting such notice at four public places in the town and at four public places within the affected area outside the corporate boundaries. Such notice shall be published or posted for the first time not less than 15 days prior to the date fixed for said hearing. Following adoption of such a map or maps the board shall certify a copy to the Register of Deeds of Wake County, which copy shall be duly filed. The placing of any street or street line upon any official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking of acceptance of any land for street purposes.

D. Right of town to acquire property before improvement. From and after the time of adoption and certification to the register of deeds of any such map or maps, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings within such lines until the board shall have been given an opportunity to purchase or otherwise acquire the property for street purposes as provided by this section. To that end, any person proposing to build upon such land or to make repairs or improvements to any existing building on such land shall, in writing, notify the board of the nature and estimated cost of such building, repairs or improvements. The board shall then determine whether it will take the necessary steps to acquire the land prior to construction of said building or the making of said repairs or improvements. If the board fails, within 60 days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute condemnation proceedings to acquire the property, then the owner or other person giving notice may proceed to erect the building or to make the repairs or improvements described in such notice. The building inspector is authorized to withhold and refrain from issuing, for a period not exceeding 60 days from receipt by the board of the notice herein prescribed, any building permit for the erection of any building within the lines, or for the making of any repairs or improvements to existing buildings within such lines.

E. Failure to give written notice; bar to recovery for value of improvements. If any person, firm or corporation builds upon any land included within the proposed street lines, or repairs or otherwise improves that part of any existing building within such lines, without giving the board an opportunity to acquire the property free from improvements, as provided in this section, the board shall not be required to pay for the value of such building, repairs, or improvements in any proceeding subsequently brought to acquire the land for the purpose shown on the officially adopted map or maps.

F. Failure of town to act; no limit to subsequent condemnation. The failure of the board of aldermen to take action under subsection D of this section within 60 days after notice shall not have the effect of limiting the right of the board at any subsequent time to condemn the land in question. In such case, however, the owner shall be entitled to full compensation as now provided by law for the building, repairs, or improvements made after the failure of the board to take action within the prescribed period.

"Sec. 5.3. Power of eminent domain. The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the town in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets, sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the

owner of the property to be acquired by the town or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

"Sec. 5.4. Acceptance of dedications. In addition to any other authority granted the town to acquire land for streets and other purposes, the town shall have power to accept by resolution the dedication of any land or interest in land for street, utility or other town purposes, both inside and outside the corporate limits, whether such dedication is made or offered by deed, by recorded plat, or otherwise. Notwithstanding the provisions of G.S. 136-96 or any other provision of law, the acceptance of a street or street easement by resolution adopted pursuant to this section shall constitute a completed dedication and acceptance, and such dedication shall not thereafter be withdrawn except with written permission of the board.

"Sec. 5.5. Acreage charges for water and sewer connections. In addition to any water and sewer service and connection charges authorized by law, the board may establish and collect acreage charges for making connections to the town water and sewerage systems, both within and outside the corporate limits, to aid in the financing of new water mains and sewer outfalls and the replacement or enlargement of existing mains and outfalls. Such charges shall apply uniformly to all properties to which water or sewer service is extended subsequent to the establishment of such charges; provided, the board may establish higher acreage charges for property to be developed for commercial, institutional, or industrial use than those established for property to be developed for other uses, and may base acreage charges for residential development on the number of dwelling units per acre of land.

"Sec. 5.6. Contracts for water or sewer extensions. Notwithstanding any provision of this charter or any other law, the board may enter into contracts with any person, firm, or corporation whereby such person, firm, or corporation agrees to bear the total initial costs of water main or sewer outfall extensions, and whereby the town agrees to reimburse such person, firm, or corporation for that portion of the costs in excess of the acreage charges attributable to property owned by such person, firm, or corporation to or through which such extensions are made; provided, such reimbursement shall be made only from revenues derived from acreage charges levied against property developed subsequent to the installation of such extensions; provided, further, that nothing in this section shall be construed to authorize or require the town to reimburse, or to contract to reimburse, any person, firm, or corporation for any part of the costs of installing water or sewer lines within a subdivision to serve such subdivision.

"Sec. 5.7. Cleaning and repair of sidewalks. It shall be the duty of every property owner in the town to maintain in good and safe repair and to keep clean and free of debris, trash, ice, snow, and other obstacles upon the sidewalks abutting his property.

The board of aldermen may by ordinance establish a procedure whereby town employees may repair or may clean any sidewalk or remove therefrom any debris, trash, ice or snow upon failure of the abutting property owner, after adequate notice and opportunity to be heard, to do so. In such event, the cost of such repair, cleaning, or removal shall become a lien upon the abutting property equivalent to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the town or by foreclosure of the lien in the same

manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes.

"ARTICLE VI.

"SPECIAL PROVISIONS.

"Sec. 6.1. Police officers' jurisdiction. All policemen and other law enforcement officers of the town charged with the duty of making arrests or otherwise enforcing the criminal laws are hereby authorized and empowered to make arrests, enforce the criminal laws and to serve any and all process at any point or place in Wake County within a distance of three miles from the corporate limits of the town, but not within the corporate limits of any other municipality.

"Sec. 6.2. Settlement of claims. The board of aldermen may authorize the town manager to settle claims against the town for personal injury or damage to property when the amount involved does not exceed the sum of one hundred dollars ($100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred. All such settlements shall be approved by the town attorney."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Garner and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) any acts concerning the property, affairs, or government of public schools in the Town of Garner;

(b) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Private Laws 1905, Chapter 358
Private Laws 1907, Chapter 197
Private Laws 1933, Chapter 153
Public-Local Laws 1937, Chapter 620
Session Laws 1953, Chapter 210
Session Laws 1953, Chapter 247
Session Laws 1955, Chapter 459
Session Laws 1957, Chapter 633
Session Laws 1959, Chapter 307
Session Laws 1961, Chapter 664
Session Laws 1963, Chapter 197
Session Laws 1963, Chapter 902
Session Laws 1967, Chapter 576
Session Laws 1967, Chapter 597
Session Laws 1969, Chapter 393

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Garner and all existing rules or regulations of departments or agencies of the Town of Garner, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the Town of Garner or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 785 CHAPTER 334

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF CONOVER AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF CONOVER.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Conover, as established in accordance with G.S. 118-6, hereinafter called the board of trustees, shall create and maintain a separate fund to be called the Conover Firemen's Supplemental Retirement Fund, hereinafter called the supplemental retirement fund, and shall maintain books of account for such fund separate from the books of

account of the Firemen's Local Relief Fund of the City of Conover, hereinafter called the local relief fund. The board of trustees shall pay into the supplemental retirement fund the funds prescribed by this act.

Sec. 2. Transfers of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Conover shall:

(a) prior to January 1, 1978, transfer to the supplemental retirement fund all funds, including earnings on investments, of the local relief fund in excess of twelve thousand dollars ($12,000);

(b) in each subsequent calendar year, and within 30 days after receipt from the city treasurer of the annual funds paid to the local relief fund by authority of G.S. 118-5, transfer to the supplemental retirement fund such funds;

(c) at any time when the amount of funds in the local relief fund shall, by reason of disbursements authorized by G.S. 118-7, be less than twelve thousand dollars ($12,000), transfer from the supplemental retirement fund to the local relief fund an amount sufficient to maintain in the local relief fund the sum of twelve thousand dollars ($12,000);

(d) as soon as practicable after January 1 of each year, but in no event later than July 1, divide funds belonging to the supplemental retirement fund including the income earned in the preceding calendar year upon investment of funds belonging to the local relief fund, into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental retirement benefits. Each fireman of the city eligible for pensions, now or hereafter, under Chapter 118, Article 3, of the North Carolina General Statutes, providing for a North Carolina Firemens' Pension Fund, as amended or superseded, shall be entitled to the following supplemental retirement benefits under this act: the total fund shall be allotted into the number of shares determined by each full year of service as a fireman of all participants, and each eligible fireman shall receive one (1) share for each full year of service. In no event shall any retired fireman receive, in any year, a benefit under this act in excess of six hundred dollars ($600).

Sec. 4. Investment of funds. The board of trustees is hereby authorized to invest any funds, either of the local relief fund or of the supplemental retirement fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and is hereby directed to invest all of the funds of the supplemental retirement fund in one or more of such investments; provided, that investment in certificates of deposit or time deposit in any bank or trust company, or in shares of any building and loan or savings and loan association, shall not exceed the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless such deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Acceptance of gifts. The board of trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the supplemental retirement fund.

Sec. 6. Bond of treasurer. The board of trustees shall bond the treasurer of the local relief fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees is hereby

authorized to pay the premiums for the bond of the treasurer from the supplemental retirement fund.

Sec. 7. Intention. It is the intention of Section 3 of this act to authorize the disbursement as supplemental retirement benefits only the income derived in any calendar year from the investments of funds belonging to the supplemental retirement fund, the local relief fund and the funds received by the local relief fund in excess of twelve thousand dollars ($12,000) as provided in Section 2 (a) of the act. It is the intention of Section 2 of this act to require that the funds paid into the supplemental retirement fund pursuant to subsections (a) and (b) thereof shall be held in trust, and that no funds paid into the supplemental retirement fund pursuant to subsections (a) and (b) thereof or as a gift, grant, bequest, or donation to such fund shall ever be disbursed except as and when required, by subsection (c) thereof, and Section 3 of this act.

Sec. 8. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 796 CHAPTER 335

AN ACT TO AMEND G.S. 14-401.5 TO PROHIBIT THE PRACTICE OF PHRENOLOGY, PALMISTRY, FORTUNE-TELLING OR CLAIRVOYANCE IN COLUMBUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.5 is hereby amended on line 3 of the third paragraph by inserting the word and punctuation "Columbus," before the word and punctuation "Craven," and after the word and punctuation "Clay,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 816 CHAPTER 336

AN ACT AUTHORIZING THE ESTABLISHMENT OF MASS TRANSIT DISTRICTS IN GASTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-301, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by adding a new subdivision (8) to read as follows:

"(8) Mass transportation."

Sec. 2. The Board of County Commissioners of Gaston County is authorized to call for a referendum to determine if mass transit districts should be established in certain areas of the county; and if property taxes, as authorized by Article 16, Chapter 153A, should be approved to finance, provide and maintain such districts.

Sec. 3. If the referendum approves the formation of such districts and the taxing proposal, the Board of County Commissioners of Gaston County may then follow the provisions set out in Article 16, Chapter 153A of the General Statutes, in establishing mass transit districts.

Sec. 4. This act shall be applicable only in Gaston County.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 819 CHAPTER 337

AN ACT TO PROVIDE FOR THE USE OF SEMI-PERMANENT PLATES FOR PICK-UP TRUCKS, MOTORCYCLES, U-DRIVE-IT PASSENGER VEHICLES AND TRAILERS TO BE RENEWED BY USE OF RENEWAL STICKERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-66 is hereby amended by redesignating the existing subsections "(c)" and "(d)" as subsections "(d)" and "(e)" respectively and adding a new subsection "(c)" to read as follows:

"(c) For renewal periods beginning January 1, 1978, and thereafter, renewal registrations of private hauler trucks licensed for 4,000 pounds gross weight, motorcycles, U-drive-it passenger vehicles and trailers may be made by issuance of stickers, tabs, or other devices in lieu of new registration plates, or in combination with new registration plates, at the discretion of the commissioner. Such stickers, tabs or other devices shall show the period of validity of registration. This provision shall not apply to trucks licensed as farm trucks, common carriers, for-hire trucks, rental trucks or contract carrier trucks."

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 821 CHAPTER 338

AN ACT TO REPEAL THE HIGHWAY LAWS RELATING TO THE DISPOSAL OF SURPLUS MATERIAL DERIVED FROM GRADING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the North Carolina General Statutes is hereby amended by repealing Section 19.1.

Sec. 2. This act shall not affect a right of an adjoining landowner to surplus material from a State highway contract project for which the contract was entered into prior to the effective date of this act; nor shall this act affect any contract entered into by the Department or Board of Transportation prior to the effective date of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 844 **CHAPTER 339**

AN ACT TO AUTHORIZE THE CRAVEN COUNTY COMMISSIONERS TO FIX COMPENSATION FOR THE MEMBERS OF THE CRAVEN COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. In accordance with G.S. 115-29, and notwithstanding any local acts applicable to Craven County, compensation for the Craven County Board of Education shall be set by the Craven County Board of Commissioners, at a rate which shall not be less than the rate currently in existence of one hundred dollars ($100.00) per month for the chairman, and seventy-five dollars ($75.00) per month for each other member.

Sec. 2. The members of the Craven County Board of Education shall be reimbursed by the school treasurer for travel in accordance with the provisions of G.S. 138-6(a).

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

S. B. 235 **CHAPTER 340**

AN ACT TO AMEND G.S. 20-37.5 RELATIVE TO THE DEFINITION OF HANDICAPPED AND TO AMEND G.S. 20-37.6 RELATIVE TO PARKING PRIVILEGES FOR THE HANDICAPPED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-37.5 is hereby rewritten to read as follows:

"§ 20-37.5. *Handicapped - definition.*—As used in this Article, handicapped shall mean:

(1) any person who has an obvious physical disability that requires the use of a wheelchair, braces, walkers, or crutches, and those who have lost the use of one or both legs; or

(2) any person who, as determined and certified by a physician, is severely restricted in mobility by a pulmonary or cardiovascular disability, arthritic condition, orthopedic or neurologic impairment."

Sec. 2. G.S. 20-37.6 is hereby amended as follows:

(1) By designating the present section as subsection (a) and by rewriting this section as follows:

"§ 20-37.6. *Handicapped - parking privileges.*—(a) Any person who falls within the definition of handicapped as defined in G.S. 20-37.5 shall be allowed to park for unlimited periods in parking zones restricted as to length of time parking is permitted. This section shall have no application to those zones or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege the vehicle shall display a distinguishing license plate or placard which shall be issued for vehicles registered to the disabled person. Such license plate shall be issued for the normal fee applicable to standard license plates, except that a person who qualifies for a license plate under this section and also qualifies as a disabled veteran under G.S. 20-81.4 shall be issued the license plate provided for herein free of charge."

(2) By adding new subsections to read as follows:

"(b) Any person who qualifies for issuance of a distinguishing license plate under subsection (a) may apply to the Division of Motor Vehicles for issuance of a distinguishing placard to be designed by the Division of Motor Vehicles, the State Vocational Rehabilitation Agency, and the Department of Insurance. Such placard shall be at least six inches by twelve inches in size, and shall display such information as the Division of Motor Vehicles deems necessary for enforcement purposes. Such placard may be used on vehicles transporting the disabled person to whom issued as hereinafter provided, in lieu of the distinguishing license plate issued pursuant to subsection (a). When the placard provided herein is displayed on the driver's side dashboard of a vehicle, all parking rights and privileges extended to vehicles displaying a distinguishing license plate issued pursuant to subsection (a) shall be applicable to such vehicle. The Division of Motor Vehicles shall establish procedures for the issuance of distinguishing placards, may charge a fee sufficient to pay the actual cost for issuance thereof and may issue two such placards to applicant upon request.

(c) Designation of parking spaces for the physically handicapped required in the North Carolina Building Code shall after July 1, 1977, be by the use of sign D9-6, Manual on Uniform Traffic Control Devices, provided nonconforming signs in use prior to July 1, 1977, shall not constitute a violation during the useful life thereof which may not be extended by other than normal maintenance. Designation of parking spaces for the physically handicapped in other areas, including public vehicular areas referenced in G.S. 20-4.01 (32) shall be by the use of sign D9-6, Manual on Uniform Traffic Control Devices, provided nonconforming signs in use prior to ratification of this bill shall not constitute a violation during the useful life thereof which may not be extended by other than normal maintenance.

(d) It shall be unlawful to park or leave standing any vehicle in a space designated for physically handicapped persons when such vehicle does not display the distinguishing license plate or placard as provided in this section where appropriate aboveground signs or symbol and words giving notice thereof are erected marking the designated parking space. It shall be unlawful for any person not qualifying for the rights and privileges extended to handicapped persons under this section to exercise or attempt to exercise such rights or privileges by the unauthorized use of a distinguishing license plate or placard issued pursuant to the provisions of this section. The punishment for violation of this section shall not exceed a fine of ten dollars ($10.00) and the prima facie rule of evidence set forth in G.S. 20-162.1 shall apply."

Sec. 3. G.S. 20-7(d) as same appears in the 1975 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes is hereby amended by striking the period after the word "require" and before the word "The" appearing in line 11 thereof and inserting the following words and punctuation: "and shall include such test as is necessary to assure that applicants recognize the 'international symbol of access' for the handicapped (sign D9-6, Manual on Uniform Traffic Control Devices) and devices relative to handicapped drivers as set forth in Article 2A of this Chapter."

Sec. 4. G.S. 20-88.1 is hereby amended by adding the following provision at the end thereof: "provided that any program supported in whole or in part from the fund established herein shall include instructions as to rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles including but not limited to the

'international symbol of accessibility' and symbols and devices as provided in Article 2A of this Chapter."

Sec. 5. G.S. 20-37.6(d) shall become effective January 1, 1978, and the remaining portions of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

S. B. 380 CHAPTER 341

AN ACT TO AMEND ARTICLE 2B OF G.S. CHAPTER 136 BY CHANGING THE TERM "MASS TRANSPORTATION" TO "PUBLIC TRANSPORTATION" AND BY AUTHORIZING THE ADMINISTRATION OF STATE PROGRAMS RELATING TO PUBLIC TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Article 2B of Chapter 136 of the General Statutes is amended in the title by striking out the word "Mass" and inserting in its place the word "Public".

Sec. 2. G.S. 136-44.20, as it appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3B of the General Statutes, is rewritten to read as follows:

"§ 136-44.20. *Board of Transportation designated agency to administer public transportation programs; authority of political subdivisions.*—The Board of Transportation is hereby designated as the agency of the State of North Carolina responsible for administering all federal and/or State programs relating to public transportation, and the board is hereby granted the authority to do all things required under applicable federal and/or State legislation to administer properly public transportation programs within North Carolina. Nothing herein shall be construed to prevent a political subdivision of the State of North Carolina from applying for and receiving direct assistance from the United States government under the provisions of any applicable legislation."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

S. B. 482 CHAPTER 342

AN ACT TO REPEAL G.S. 141-7, WHICH DESIGNATES NORTH CAROLINA'S SOUTHERN LATERAL SEAWARD BOUNDARY WITH SOUTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 141-7 is hereby repealed in its entirety.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1977.

H. B. 398 **CHAPTER 343**

AN ACT TO AMEND THE GENERAL STATUTES TO PROVIDE THAT FOR PURPOSES OF ASSESSMENT UNDER ARTICLE 17B OF CHAPTER 58 PREMIUMS OTHERWISE REPORTABLE BY SERVICING INSURERS UNDER THE FAIR AND BEACH PLANS SHALL BE DEEMED TO BE THE PREMIUMS OF THE INSURERS PARTICIPATING IN THOSE PLANS.

The General Assembly of North Carolina enacts:

Section 1. Amend G.S. 58-155.48(a)(3) by deleting the period and adding the following clause at the end of the second sentence:

"; provided, for purposes of assessment only, premiums otherwise reportable by a servicing insurer under any plan of operation approved by the Commissioner of Insurance under Articles 18A or 18B of this Chapter shall not be deemed to be the net direct written premiums of such servicing insurer, but shall be deemed to be the net direct written premiums of the individual insurers to the extent provided for in any such plan of operation."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 409 **CHAPTER 344**

AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS TO ISSUE SUBPOENAS AND ADMINISTER OATHS TO INDIVIDUALS OTHER THAN STATE OFFICIALS, AND TO AMEND THE PROCEDURES FOR PUNISHMENT FOR CONTEMPT BEFORE A LEGISLATIVE COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-77 as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended by adding at the end thereof a new sentence to read as follows:

"In addition, the provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the commission as if it were a joint committee of the General Assembly."

Sec. 2. G.S. 120-19.4 as the same appears in the 1974 Replacement Volume 3B of the General Statutes is hereby rewritten to read as follows:

"§ 120-19.4. *Failure to respond to subpoena or refusal to testify punishable as contempt.*—(a) Any person who without good cause fails to obey a subpoena which was served upon him, or, fails or refuses to testify shall be deemed to be in contempt of the committee and shall be punished as in the case of a civil contempt under the procedures set out in subsection (b). Any person whose action in the immediate presence of the committee directly tends to disrupt its proceedings may also be punished as in the case of a civil contempt under the procedures set out in subsection (b).

(b) If by a majority vote the committee deems that any person is in contempt under the provisions of subsection (a) the committee shall file a complaint signed by the chairman in the General Court of Justice, Superior Court

Division, requesting that the court issue an order directing that the person appear within a reasonable time and show good cause why he should not be held in contempt of the committee or its processes. If the person does not establish good cause the court shall punish the person in accordance with the provisions of G.S. 5-4."

Sec. 2. G.S. 11-7.1(a) as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by adding a new subdivision (6) thereto to read as follows:

"(6) The chairman of a committee of the House or Senate of the General Assembly, or either of the co-chairmen of a joint committee."

Sec. 3. G.S. 11-11, as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by adding a new paragraph thereto to read as follows:

"Witness before a Legislative Committee or Commission

You swear (or affirm) that the testimony you shall give to the committee (or commission) shall be the truth, the whole truth, and nothing but the truth; so help you, God."

Sec. 4. G.S. 14-211 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended on line 3 after the word "committee" by adding the words "or commission".

Sec. 5. Article 7 of Chapter 120 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 120-32.4 and to read as follows:

"§ 120-32.4. *Subpoena and contempt powers.*—The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Legislative Services Commission as if it were a joint committee of the General Assembly."

Sec. 6. This act shall become effective August 1, 1977.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 509 CHAPTER 345

AN ACT TO AUTHORIZE CERTAIN PRECINCT OFFICIALS TO ASSIST VOTERS IN MARKING BALLOTS UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-152(a)(1)b is rewritten to read as follows:

"If no near relative of the voter's choice is present at the voting place, a voter in any of the following three categories shall be entitled to assistance from any voter of the precinct who has not given aid to another voter at the same primary or general election; or, if no such person be present at the voting place, from the registrar or one of the judges of election, or one of the assistants appointed pursuant to G.S. 163-42:

(1) one who, on account of physical disability, is unable to enter the voting booth without assistance;

(2) one who, on account of physical disability, is unable to mark his ballots without assistance;

(3) one who, on account of illiteracy, is unable to mark his ballots without assistance."

Sec. 2. G.S. 163-152(a)(2) is amended by rewriting the last sentence to read as follows:

"If no near relative or other voter of the voter's choice is present, the voter entitled to assistance may request and obtain aid from the registrar, one of the judges or one of the assistants appointed pursuant to G.S. 163-42, at the voter's choice. Under no circumstances shall any precinct official be assigned to assist a voter who qualifies for assistance under this section, who was not specified by the voter."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 605 CHAPTER 346

AN ACT TO AMEND THE CHARTER OF THE TOWN OF ROLESVILLE TO PROVIDE FOR THE ELECTION OF THE MAYOR AND BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 84, Public-Local Laws of 1941, is hereby rewritten to read as follows:

"Sec. 6. The election for municipal offices in the Town of Rolesville shall be nonpartisan and decided by simple plurality and shall be held on Tuesday after the first Monday in November beginning in 1977. In the municipal election held in 1977, the three candidates for the office of commissioner receiving the highest number of votes shall be elected for a term of four years, and the two candidates receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as the terms of each commissioner expire, his successor shall be elected for a term of four years.

In the 1977 municipal election, the mayor shall be elected for a term of two years. Thereafter the mayor shall be elected for a term of four years.

Except as otherwise provided herein, the municipal elections shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes relating to municipal elections."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 794 CHAPTER 347

AN ACT TO PROVIDE THAT IN SAMPSON AND CASWELL COUNTIES PISTOL PERMITS SHALL BE ISSUED BY THE SHERIFF, OR HIS DESIGNATED DEPUTY AND THAT A FEE TO BE SET BY THE BOARD OF COUNTY COMMISSIONERS SHALL BE CHARGED FOR EACH PERMIT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, in Sampson and Caswell Counties, so-called pistol permits required by G.S. 14-402 and G.S. 14-409.1 shall be issued by the sheriff or any deputy sheriff designated by the sheriff.

Sec. 2. Notwithstanding any other provision of law, permits issued under this act shall be issued to only "responsible and competent" persons.

Sec. 3. A fee to be set by the board of county commissioners shall be charged for each permit and shall be deposited to the general fund of the county.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 805 CHAPTER 348

AN ACT TO ABOLISH THE OFFICE OF CORONER IN STOKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner is hereby abolished in Stokes County.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 888 CHAPTER 349

AN ACT TO AUTHORIZE CERTAIN GOVERNMENTAL UNITS IN LINCOLN COUNTY TO DISPOSE OF OBSOLETE PERSONAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Lincoln County, the City of Lincolnton, the school administrative units located in the City of Lincolnton and Lincoln County, sanitary districts located in Lincoln County, fire districts located in Lincoln County, the Emergency Ambulance Service, Inc., of Lincoln County, the Lincoln County Life Savings and First Aide Crew, Inc., and other public districts, authorities, departments, agencies, boards, commissions and institutions are hereby authorized and empowered to dispose of all obsolete personal property owned by the above listed entities valued at less than five thousand dollars ($5,000) upon such terms and conditions as they deem wise, with or without consideration, at public or private sale, without bids being made and without all other formalities of law.

Sec. 2. Before any disposition, sale, transfer or gift of any personal property can be made by any of the entities set forth in Section 1 above, approval thereof must be obtained from the Lincoln County Board of Commissioners.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 906 **CHAPTER 350**

AN ACT TO AMEND THE PUBLIC-LOCAL LAWS RELATING TO THE BUREAU OF IDENTIFICATION FOR WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The appointments of all assistants to the identification expert for the Bureau of Identification for Wake County are hereby extended so as to continue and remain in effect during the period of good behavior of each of the said assistants. All future appointments of individuals as assistants to the said identification technician shall be pursuant to the terms and conditions set forth in Chapter 860 of the Session Laws of 1961; Provided, however, that said appointments shall continue and remain in effect during the period of good behavior of the individual appointed.

Sec. 2. Section 5 of Chapter 535 of the Public-Local Laws of 1937 is hereby rewritten to read as follows:

"Sec. 5. That nothing in this act shall be construed as increasing the number of deputy sheriffs for Wake County, but the assistants herein provided for shall constitute deputies to the Sheriff of Wake County."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 955 **CHAPTER 351**

AN ACT TO CONTROL THE SETTING OF ANNEXATION DATES FOR THE CITY OF RALEIGH.

The General Assembly of North Carolina enacts:

Section 1. The City of Raleigh shall have the authority to amend the effective date of any pending annexation conducted pursuant to the provisions of Chapter 160A-49 of the North Carolina General Statutes at any time prior to the effective date of annexation.

Sec. 2. The provisions of G.S. 160A-49(e)(4) where in conflict with this law are repealed as to the City of Raleigh.

Sec. 3. The provisions of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 957 **CHAPTER 352**

AN ACT TO DELETE ALAMANCE COUNTY FROM THE PROVISIONS OF CHAPTER 581 OF THE 1899 PUBLIC LAWS.

The General Assembly of North Carolina enacts:

Section 1. The reference to Alamance County in Section 22 of Chapter 581 of the 1899 Public Laws of North Carolina, as amended by Section 1 of Chapter 729 of the 1901 Public Laws of North Carolina, is hereby deleted. The provisions of this public law shall not apply to Alamance County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 959 **CHAPTER 353**

AN ACT AMENDING CHAPTER 209 OF THE SESSION LAWS OF 1973, WHICH PROVIDED A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF LINCOLNTON.

The General Assembly of North Carolina enacts:

Section 1. (a) Section 3 of Chapter 209, Session Laws of 1973, is amended by striking the letter and punctuation "(a)" in line 1 thereof.

b. Section 3 of Chapter 209, Session Laws of 1973, is further amended by striking all of subsection (b) thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

S. B. 108 **CHAPTER 354**

AN ACT TO AMEND CHAPTER 162 OF THE SESSION LAWS OF 1975 SO AS TO MAKE PERMANENT THE PROVISIONS OF G.S. 20-7(g), REGARDING THE ELIMINATION OF ROAD AND WRITTEN TESTS FOR SAFE DRIVERS APPLYING FOR RENEWAL OF CHAUFFEUR'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 162 of the Session Laws of 1975 is hereby rewritten to read as follows:

"Sec. 3. This act shall be in full force and effect from and after May 1, 1975."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

S. B. 406 **CHAPTER 355**

AN ACT TO AMEND G.S. 66-58, WHICH PROHIBITS SALE OF MERCHANDISE BY GOVERNMENTAL UNITS, SO AS TO EXEMPT FARMERS' MARKETS OPERATED BY THE DEPARTMENT OF AGRICULTURE FROM THE PROVISIONS OF SAID ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(b) as the same appears in the 1975 Supplement to Volume 2C of the General Statutes, is amended by inserting a sub-subsection 13(b) as follows:

"13(b). The Department of Agriculture with regard to its lessees at farmers' markets operated by the department."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

S. B. 484 **CHAPTER 356**

AN ACT TO AMEND CERTAIN LAWS AFFECTING THE PROMOTION OF COASTAL FISHERIES AND SEAFOOD INDUSTRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-315.5 as the same appears in the 1975 Replacement Volume of the North Carolina General Statutes is amended by deleting the word "registered" on line 5 thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

S. B. 508 **CHAPTER 357**

AN ACT TO PLACE RANDOLPH COUNTY UNDER G.S. 44-51.8 RELATING TO ATTACHMENT OR GARNISHMENT FOR AMBULANCE SERVICE IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8 is amended by adding Randolph County in appropriate alphabetical order.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 958 **CHAPTER 358**

AN ACT TO INCORPORATE THE TOWN OF DORTCHES IN NASH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Town of Dortches, as described in the charter enacted by Section 2 of this act, is hereby incorporated.

Sec. 2. The Charter of the Town of Dortches reads as follows:

"THE CHARTER OF THE TOWN OF DORTCHES.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. Incorporation and corporate powers. The inhabitants of the Town of Dortches are a body corporate and politic under the name of the 'Town of Dortches'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Sec. 2.1. Town boundaries. Until modified in accordance with law, the boundaries of the Town of Dortches are a circle with a radius of one and one-half miles with its center at the intersection of N. C. 43 and State Secondary Road 1527 (also known as the 'Halifax Road').

"CHAPTER III.
"GOVERNING BODY.

"Sec. 3.1. Structure of governing body; number of members. The governing body of the Town of Dortches is the board of commissioners, which has four members, and the mayor.

"Sec. 3.2. Manner of election of board; term of office. The qualified voters of the entire town elect the members of the board. Members of the board are elected to four-year terms.

"Sec. 3.3. Election of mayor; term of office. The qualified voters of the entire town elect the mayor. He is elected to a four-year term of office.

"CHAPTER IV.
"ELECTIONS.

"Sec. 4.1. Conduct of town elections. Town officers shall be elected on a nonpartisan basis and the results determined by a majority of votes cast, with a run-off election if necessary, as provided by G.S. 163-293.

"CHAPTER V.
"ADMINISTRATION.

"Sec. 5.1. Town to operate under mayor-council plan. The Town of Dortches operates under the mayor-council plan as provided in G.S. Chapter 160A, Article 7, Part 3."

Sec. 3. The initial election for mayor and board of commissioners of the Town of Dortches shall be held at the time of municipal elections in 1977. The Nash County Board of Elections shall conduct the election, and the election and run-off election method of election shall be used. The board of elections shall determine the eligible voters of the town pursuant to G.S. 163-288.2. The filing fee for this election shall be five dollars ($5.00).

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

S. B. 63 CHAPTER 359

AN ACT TO AMEND THE STATUTORY PROVISIONS FOR NOTICE AND HEARING PRIOR TO MORTGAGE FORECLOSURE SALES TO CLARIFY AMBIGUITIES AND PROVIDE FOR A MORE EFFICIENT PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.12(b) is amended by rewriting the second sentence to read as follows:

"For the purpose of this section, a sale is commenced when the notice of hearing or the notice of sale is first filed, given, served, posted, or published, whichever occurs first, as provided by this Article or by the terms of the instrument pursuant to which the power of sale is being exercised."

Sec. 2. G.S. 45-21.16(a) is amended by changing the period at the end of the section to a semicolon and adding the following proviso:

"provided further, if service upon a party cannot be effected after a reasonable and diligent effort in a manner authorized above, notice to such party may be given by posting a notice in a conspicuous place and manner upon the property for a period of not less than 20 days before the date of hearing, which 20-day period may run concurrently with any other effort to effect service."

Sec. 3. G.S. 45-21.16(b) is amended by rewriting the first line as follows:

"(b) Notice of hearing shall be given in a manner authorized in subsection (a) to:".

Sec. 4. G.S. 45-21.16(b)(2) is amended by deleting the first word "To" and capitalizing the "A" in the first word "Any".

Sec. 5. G.S. 45-21.16(b)(3) is rewritten to read as follows:

"(3) Every record owner of the real estate whose interest is of record in the county where the real property is located at the time of giving notice. The term 'record owner' means any person owning a present or future interest of record in the real property which interest would be affected by the foreclosure proceeding, but does not mean or include the trustee in a deed of trust or the owner or holder of a mortgage, deed of trust, mechanic's or materialman's lien, or other lien or security interest in the real property."

Sec. 6. G.S. 45-21.16(c)(5) is amended by substituting a period for the comma after the word "permitted" in the second line and by deleting the remainder of the subdivision.

Sec. 7. G.S. 45-21.16(c) is amended by deleting subdivision (6), renumbering accordingly subdivisions (7) through (9), and adding a new subdivision (9) to read as follows:

"(9) If the notice of hearing is intended to serve also as a notice of sale, such additional information as is set forth in G.S. 45-21.16A."

Sec. 8. G.S. 45-21.16(d) is amended by deleting the words "further find that" from the eighth line and substituting the word "authorize" therefor; by deleting the first word "can" from the ninth line and substituting the word "to" therefor; and by striking the last sentence and substituting therefor the following: "Appeals from said act of the clerk shall be heard de novo. If an appeal is taken from the clerk's findings, the appealing party shall post a bond with sufficient surety as the clerk deems adequate to protect the opposing party from any probable loss by reason of appeal; and upon posting of the bond the clerk shall stay the foreclosure pending appeal."

Sec. 9. G.S. 45-21.16(e) is amended by rewriting the last sentence to read as follows:

"In those counties where no session of court is scheduled within 30 days from the date of hearing before the clerk, either party may petition any regular or special superior court judge resident in a district or assigned to hold courts in a district where any part of the real estate is located, or the chief district judge of a district where any part of the real estate is located, who shall be authorized to hear the appeal."

Sec. 10. G.S. 45-21.16(f) is amended in the second line by lowering the case of the letter "A" in the word "At" and inserting between the end of the first sentence and the new word "at" the following:

"In any case in which the original principal amount of indebtedness secured was one hundred thousand dollars ($100,000), or more, any person entitled to notice and hearing may waive after default the right to notice and hearing by written instrument signed by such party. In all other cases,".

Sec. 11. G.S. 45-21.17(4) is amended by inserting the words "by first-class mail" after the word "mailed" in the first and fourth lines.

Sec. 12. G.S. 45-21.17(5)e is rewritten to read as follows:

"(5)e. Evidence of compliance. The affidavit of the mortgagee, trustee, or other person authorized to conduct the sale that copies of the notice of sale

have been mailed to all parties filing requests for the same hereunder shall be deemed prima facie true. If on hearing it is proven that a party seeking to have the foreclosure sale set aside or seeking damages resulting from the foreclosure sale was mailed notice in accordance with this section or had actual notice of the sale before it was held (or if a resale was involved, prior to the date of the last resale), then he shall not prevail. Costs, expenses, and reasonable attorneys' fees incurred by the prevailing party in any action to set aside the foreclosure sale or for damages resulting from the foreclosure sale shall be allowed as of course to the prevailing party."

Sec. 13. G.S. 45-21.17(5) is amended by adding two new subdivisions to read as follows:

"(5)f. Action to set foreclosure sale aside for failure to comply. A person entitled to notice of sale by virtue of G.S. 45-21.17(5)a shall not bring any action to set the sale aside on grounds that he was not mailed the notice of sale unless such action is brought prior to the filing of the final report and account as provided in G.S. 45-21.33, if the property is purchased by someone other than the secured party; or if brought by the secured party, unless the action is brought within six months of the date of such filing and prior to the time the secured party sells the property to a bona fide purchaser for value; nor unless the party bringing such action also tenders an amount exceeding the reported sale price or the amount of the secured party's interest in the property, including all expenses and accrued interest, whichever is greater. Such tender shall be irrevocable pending final adjudication of the action.

"(5)g. Action for damages from foreclosure sale for failure to comply. A person entitled to notice of sale by virtue of G.S. 45-21.17(5)a shall not bring any action for damages resulting from the sale on grounds that he was not mailed the notice unless such action is brought within six months of the date of the filing of the final report and account as provided in G.S. 45-21.33, nor unless the party bringing such action also deposits with the clerk a cash or surety bond approved by the clerk and in such amount as the clerk deems adequate to secure the party defending the action for such costs, expenses, and reasonable attorneys' fees to be incurred in the action."

Sec. 14. G.S. 45-21.17 is amended by adding a new subsection (6) to read as follows:

"(6) Any time periods relating to notice of hearing or notice of sale that are provided in the security instrument may commence with and run concurrently with the time periods provided in G.S. 45-21.16 or G.S. 45-21.17."

Sec. 15. G.S. 45-21.30(c) is amended in the sixth line by inserting between the word "provisions" and the word "of" the following:

"of G.S. 45-21.16 are not applicable to a resale, and the provisions".

Sec. 16. All General Statutes amended by this act appear in the 1976 Replacement of Volume 2A.

Sec. 17. This act shall not apply to pending litigation.

Sec. 18. This act shall become effective on October 1, 1977, and shall apply only to those foreclosure actions commenced on or after that date.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. B. 132 **CHAPTER 360**

AN ACT TO AMEND G.S. 105-307 TO AUTHORIZE TAX SUPERVISORS TO GRANT INDIVIDUAL EXTENSIONS OF TIME FOR LISTING PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Paragraph two of G.S. 105-307 is hereby rewritten to read as follows:

"The board of county commissioners shall grant individual extensions of time for the listing of real and personal property upon written request and for good cause shown. The request must be filed with the tax supervisor no later than the ending date of the regular listing period. The board may delegate the authority to grant extensions to the tax supervisor. Extensions granted under this paragraph shall not extend beyond April 15."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1977.

H. B. 501 **CHAPTER 361**

AN ACT TO REQUIRE PAWNBROKERS TO KEEP DETAILED RECORDS OF ALL TRANSACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 91-4 is hereby rewritten to read as follows:

"§ 91-4. *Records to be kept.*—Every pawnbroker shall keep a book in which shall be legibly written, at the time of each transaction involving the pawning, pledging or selling of used goods, articles or things between any person and the pawnbroker, his employee or agent, the following information:

An account and description of the used goods, articles, or things including if applicable, the manufacturer's name, the model, the model number, the serial number of the used goods, articles or things, and any engraved numbers or initials found on the goods, articles or things;

The amount of money paid or loaned thereon and the rate of interest to be paid, if applicable;

The date of the transaction; and

The name and residence of the person pawning, pledging, or selling the used goods, articles, or things.

The pawnbroker or his employee or agent shall require that the person pawning, pledging, or selling the used goods, articles, or things, present two forms of positive identification to him before the pawnbroker may complete any transaction regarding the pawning, pledging, or buying of used goods, articles, or things; provided, however, that the presentation of any one state or federal government issued identification containing a photographic representation imprinted thereon shall constitute compliance with the identification requirements of this paragraph. The pawnbroker or his employee or agent shall legibly record this identification information next to the person's name and residence in the book heretofore required to be kept.

Such book shall be a permanent record to be kept at all times on the premises of the place of business of the pawnbroker and shall be made available, during regular business hours, to any law enforcement officer who requests to inspect

the book. A copy of the records required to be kept by this section shall be filed within 48 hours of the transaction in the office of the sheriff of the county in which the pawnshop is located and the chief of police of the city or town issuing the license to such pawnbroker."

Sec. 2. G.S. 91-5 is rewritten to read as follows:

"§ 91-5. *Pawn ticket.*—Every such pawnbroker shall at the time of each loan deliver to the person pawning or pledging any used goods, articles, or things, a ticket or memorandum or note signed by him containing the substance of the entry required to be made by him in his book as set out in G.S. 91-4. The said tickets or memorandums so issued shall be numbered consecutively and dated the day issued."

Sec. 3. Chapter 948 of the 1973 Session Laws is hereby repealed.

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 11th day of May, 1977.

S. B. 131 CHAPTER 362

AN ACT TO AMEND THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM SET FORTH IN CHAPTER 108 OF THE GENERAL STATUTES TO MANDATE THAT PERSONS RECEIVING AFDC REGISTER AND ACCEPT REASONABLE EMPLOYMENT, TO PROVIDE FOR PUBLIC SERVICE EMPLOYMENT PRIORITY AND TO PROVIDE FOR VOLUNTEER EMPLOYMENT PROGRAMS FOR PERSONS RECEIVING AFDC.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-39(b) and (c), as the same appear in Volume 3A of the General Statutes, are hereby repealed, and the following sections are substituted therefor:

"(b) No applicant for or recipient of an Aid to Families with Dependent Children grant who has the ability and capacity for gainful employment but who is not employed on a part-time or full-time basis shall have his needs included in an Aid to Families with Dependent Children grant unless he registers with the Employment Security Commission and accepts reasonable employment when it is available. The needs of the remaining family members shall be met in the form of a protective payment in accordance with G.S. 108-50 in the event that a recipient-payee is declared ineligible for Aid to Families with Dependent Children by the county department of social services for failure to register with the Employment Security Commission or to accept reasonable employment when it is available.

(c) A recipient of an Aid to Families with Dependent Children grant is specifically exempt from the registration and employment requirements of subsection (b) if he is:

(1) a child who is under age 16 or attending school full time;

(2) a person who is ill, incapacitated, or of advanced age;

(3) a person so remote from a local office of the Employment Security Commission or an available employment opportunity that his effective participation is precluded;

(4) a person whose presence in the home is required because of illness or incapacity of another member of the household; or

(5) a mother or other relative of a child under the age of six who is caring for the child.

(d) Members of families with dependent children and with aggregate family income at or below the level required for eligibility for Aid to Families with Dependent Children grants, regardless of whether or not they have applied for such grants, shall be given priority in obtaining manpower services including training and public service employment provided by or through State agencies or with funds which are allocated to the State of North Carolina directly or indirectly through prime sponsors or otherwise for the purpose of employment of unemployed persons."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 11th day of May, 1977.

S. B. 293 **CHAPTER 363**

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO EMPOWER THE VOTERS TO ELECT THE GOVERNOR AND LIEUTENANT GOVERNOR FOR TWO CONSECUTIVE TERMS.

The General Assembly of North Carolina enacts:

Section 1. The Constitution of North Carolina is hereby amended by rewriting Article III, Section 2(2) thereof to read as follows:

"Sec. 2(2). Qualifications. No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be eligible for election to more than two consecutive terms of the same office."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election to be held in November 1978, or at the next statewide election, whichever is earlier. That election shall be conducted under the laws then governing elections in this State.

Sec. 3. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

"☐ FOR constitutional amendment empowering the qualified voters of the State to elect the Governor and Lieutenant Governor to a second successive term of the same office.

☐ AGAINST constitutional amendment empowering the qualified voters of the State to elect the Governor and Lieutenant Governor to a second successive term of the same office."

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 4. If a majority of the votes cast thereon are in favor of the amendment set out in Section 1 of this act, then the State Board of Elections shall certify the amendment set out in Section 1 of this act to the Secretary of State, who shall enroll that amendment so certified among the permanent

records of this office. This amendment shall become effective upon its certification to the Secretary of State.

Sec. 5. If a statewide election is held prior to the general election to be held in November 1978, the State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding said election and registration therefor, the same to be paid out of the Contingency and Emergency Fund, unless the payment of such expenses is otherwise expressly provided for.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1977.

S. B. 440 CHAPTER 364

AN ACT TO REMOVE VIOLATION OF A THIRTY-DAY MISDEMEANOR AS GROUNDS FOR REVOCATION OF PROBATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-199 is amended by rewriting subdivision (13) to read as follows:

"(13) Violate no penal law of any state or of the United States and be of general good behavior; however, probation may not be revoked solely for conviction of a misdemeanor unless it is punishable by imprisonment for more than thirty days;".

Sec. 2. This act shall become effective on and after October 1, 1977.

In the General Assembly read three times and ratified, this the 11th day of May, 1977.

S. B. 455 CHAPTER 365

AN ACT RELATING TO RAFFLES AND THE GAME OF BINGO IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to operate raffles and the game of "bingo" (by whatever name called) for prizes and/or money in Alleghany, Lee, and Wayne Counties except as herein below provided. It shall be lawful to operate raffles and the game of "bingo" (by whatever name called) for prizes and/or money in Alleghany, Lee, and Wayne Counties if the person or organization operating said game or raffle has previously received a determination letter from the North Carolina Secretary of Revenue (or the equivalent from the Internal Revenue Service) indicating that the person or organization conducting said game or raffle has been exempted from income and/or franchise taxes in respect to income derived in the conduct of its exempt activities.

Sec. 2. The number of sessions where a game of "bingo" is conducted or sponsored by a person or organization shall be limited to not more than one session per week, and shall not exceed a total time period of more than six hours in any one week.

Sec. 3. Any violation of this act shall be a misdemeanor, punishable in accordance with G.S. 14-3(a).

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1977.

S. B. 476 CHAPTER 366

AN ACT TO REPEAL G.S. 146-6.1 REQUIRING REGISTRATION OF EARTH-MOVING EQUIPMENT IN THE COASTAL AREA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-6.1, as the same appears in the 1974 Replacement Volume 3C and as amended in the 1975 Cumulative Supplement of Volume 3C, is repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1977.

H. B. 250 CHAPTER 367

AN ACT TO REQUIRE OPERATORS OF VEHICLES TO REDUCE SPEED TO AVOID ACCIDENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-141 is hereby amended by adding a new subsection to be designated subsection (m) and to read as follows:

"(m) The fact that the speed of a vehicle is lower than the foregoing limits shall not relieve the operator of a vehicle from the duty to decrease speed as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway, and to avoid injury to any person or property."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. B. 420 CHAPTER 368

AN ACT TO AMEND G.S. 90-29(c)(4) TO ALLOW THE PRACTICE OF DENTISTRY BY DENTAL STUDENTS AT OFF-CAMPUS LOCATIONS APPROVED BY THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-29(c)(4) is hereby rewritten to read as follows:

"(4) The practice of dentistry in dental schools or colleges in this State approved by the North Carolina State Board of Dental Examiners by students enrolled in such schools or colleges as candidates for a Doctoral Degree in Dentistry when such practice is performed as a part of their course of instruction and is under direct supervision of a dentist who is either duly licensed in North Carolina or qualified under subdivision (3) above as a teacher; additionally, the practice of dentistry by such students at State or county institutions with resident populations, hospitals, State or county health departments, area health education centers and State or county owned nursing homes; subject to review and approval or disapproval by the said board of dental examiners when in the opinion of the dean of such dental school or

college or his designee, the students' dental education and experience are adequate therefor, and such practice is a part of the course of instruction of such students, is performed under the direct supervision of a duly licensed dentist acting as a teacher or instructor, and is without remuneration except for expenses and subsistence all as defined and permitted by the rules and regulations of said board of dental examiners. Should the board disapprove a specific program, the board shall within 90 days inform the dean of its actions. Nothing herein shall be construed to permit the teaching of, delegation to or performance by any dental hygienist, dental assistant, or other auxiliary relative to any program of extramural rotation, of any function not heretofore permitted by the Dental Practice Act, the Dental Hygiene Act or by the rules and regulations of the board."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. B. 526 CHAPTER 369

AN ACT TO AMEND G.S. 44A-12(c) RELATING TO THE FORM ON WHICH ALL CLAIMS OF LIEN MUST BE FILED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-12(c) is hereby amended by renumbering subdivision (6) as subdivision (7) and by inserting a new subdivision (6) to read as follows:

"(6) Date upon which labor or materials were last furnished upon said property by the claimant:".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. B. 820 CHAPTER 370

AN ACT TO PROVIDE FOR THE TRANSFER OF PERMANENT REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-84 as same appears in the 1975 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes of North Carolina is hereby amended by:

(a) Striking the sentence which reads, "Such plates shall not be subject to renewal and shall be valid only on the vehicle for which issued." appearing in the second unnumbered paragraph beginning in line 6 immediately following the word "Permanent", and inserting in lieu thereof: "Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification."

(b) Striking the words "and such plates should be valid only on the vehicle for which issued and then only so long as the vehicle shall be operated for the purposes above described and for which the plates were originally issued" appearing in lines 11, 12, and 13 of the fourth unnumbered paragraph beginning immediately after the word "renewal" and inserting in lieu thereof "and such plates may be transferred as provided in G.S. 20-78 to replacement vehicles to

be used for the purposes above described and for which the plates were originally issued."

(c) Striking the sentence which reads, "Such registration plate shall be valid only for the vehicle for which issued and then only so long as the vehicle shall be operated as above described." appearing in the fifth unnumbered paragraph beginning on line 7 immediately following the word "cross" and inserting in lieu thereof: "Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used for the purposes above described and for which the plates were originally issued."

(d) Striking the words "and such plates shall be valid only when attached to the vehicle for which issued and then only so long as the vehicle is operated by the sheltered workshop designated on the registration card" appearing in the seventh unnumbered paragraph beginning on line 9 immediately following the word "renewed" and inserting in lieu thereof "and such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used by the sheltered workshop designated on the registration card."

Sec. 2. G.S. 20-84.1 as same appears in the 1975 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes of North Carolina is hereby amended by striking the sentence which reads, "Such plates shall not be subject to renewal and shall be valid only on the vehicle for which issued." beginning on line 8 immediately following the word "permanent" and inserting in lieu thereof: "Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. B. 853 CHAPTER 371

AN ACT TO AUTHORIZE BEER AND WINE ELECTIONS IN THE TOWN OF CAMERON, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the population limitation in G.S. 18A-52, the Town of Cameron is hereby authorized to hold malt beverage and unfortified wine elections for off-premise sales only as provided in G.S. 18A-52 and G.S. 18A-53.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. B. 866 **CHAPTER 372**

AN ACT TO AMEND G.S. 105-466(b) TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS MAY LEVY A SALES TAX AFTER NOTICE AND PUBLIC HEARING IF AN ELECTION UNDER G.S. 105-465 HAS NOT BEEN HELD WITHIN FIVE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-466(b), as the same appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes, is hereby amended by adding in line 2 thereof, after the word "held" and before the word "under", the following: "within five years".

Sec. 2. The provisions of this act shall not apply to Burke County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

S. B. 336 **CHAPTER 373**

AN ACT TO PROVIDE THAT ANY PERSON WHO IS 17 YEARS OLD MAY DONATE BLOOD WITHOUT CONSENT OF PARENT OR GUARDIAN.

The General Assembly of North Carolina enacts:

Section 1. Article 15A of Chapter 90 of the General Statutes is hereby amended by deleting Section 220.11 therefrom and substituting in lieu thereof the following section to be designated G.S. 90-220.11 to read as follows:

"§ 90-220.11. *Giving of blood by persons 17 years of age or more.*—Any person who is 17 years of age or more may give or otherwise donate his blood to any individual, hospital, blood bank or blood collection center without the consent of the parent or parents or guardian of such donor. Provided, however, that it shall be unlawful for any person under the age of 18 years to sell his blood."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

S. B. 483 **CHAPTER 374**

AN ACT TO PROVIDE THAT CERTAIN RULES OF THE ENVIRONMENTAL MANAGEMENT COMMISSION SHALL BE FILED WITH THE ATTORNEY GENERAL AS PROVIDED BY CHAPTER 150A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.4(b), as it now appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3C, is amended by deleting therefrom the words "Secretary of State" in line 8, and by substituting instead the words "Attorney General in the manner provided by Chapter 150A of the General Statutes".

Sec. 2. G.S. 143-215.56(b), as it now appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3C, on lines 15 and 16, is amended by deleting therefrom the words "Secretary of State as required by G.S. 143-195" and by inserting instead "Attorney General as required by Chapter 150A of the General Statutes".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. B. 25

CHAPTER 375

AN ACT TO REPEAL G.S. 52-6 RELATING TO THE PRIVATE EXAMINATION OF MARRIED WOMEN AND TO MAKE CONFORMING CHANGES IN RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 52-6 is repealed.

Sec. 2. G.S. 52-10 is rewritten to read as follows:

"§ 52-10. *Contracts between husband and wife generally; releases.*—(a) Contracts between husband and wife not inconsistent with public policy are valid, and any persons of full age about to be married and married persons may, with or without a valuable consideration, release and quitclaim such rights which they might respectively acquire or may have acquired by marriage in the property of each other; and such releases may be pleaded in bar of any action or proceeding for the recovery of the rights and estate so released. No contract or release between husband and wife made during their coverture shall be valid to affect or change any part of the real estate of either spouse, or the accruing income thereof for a longer time than three years next ensuing the making of such contract or release, unless it is in writing and is acknowledged by both parties before a certifying officer.

(b) Such certifying officer shall be a notary public, or a justice, judge, magistrate, clerk, assistant clerk or deputy clerk of the General Court of Justice, or the equivalent or corresponding officers of the state, territory or foreign country where the acknowledgment is made. Such officer must not be a party to the contract.

(c) This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a contract or release between such husband and wife."

Sec. 3. G.S. 52-10.1 is rewritten to read as follows:

"§ 52-10.1. *Separation agreements.*—Any married couple is hereby authorized to execute a separation agreement not inconsistent with public policy which shall be legal, valid, and binding in all respects; provided, that the separation agreement must be in writing and acknowledged by both parties before a certifying officer as defined in G.S. 52-10(b). Such certifying officer must not be a party to the contract. This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a separation agreement between such husband and wife."

Sec. 4. G.S. 7A-292(10), as it appears in the 1975 Cumulative Supplement to 1969 Replacement Volume 1B of the General Statutes, is amended by deleting the following: ", and to make a private examination of the wife, as provided in G.S. 52-6".

Sec. 5. G.S. 10-5(a)(1), as it appears in the 1975 Cumulative Supplement to 1969 Replacement Volume 1B, is rewritten to read as follows:

"(1) Take and certify the acknowledgment of a contract, release, or separation agreement between a husband or wife as prescribed by the provisions of G.S. 52-10 or G.S. 52-10.1, and take and certify the acknowledgment or proof of the execution or signing of any other instrument or writing;".

Sec. 6. G.S. 29-19(b), as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended in the paragraph designated (2) by deleting the langauge "G.S. 52-6(c)" and substituting therefor the language "G.S. 52-10(b)".

Sec. 7. G.S. 39-12, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 5 by deleting the language "G.S. 52-6" and substituting therefor the language "G.S. 52-10 or G.S. 52-10.1".

Sec. 8. G.S. 39-13.2(b), as it appears in 1976 Replacement Volume 2A of the General Statutes, is rewritten to read as follows:

"(b) Any transaction between a husband and wife pursuant to this section shall be subject to the provisions of G.S. 52-10 or G.S. 52-10.1 whenever applicable."

Sec. 9. G.S. 39-13.3(e), as it appears in 1976 Replacement Volume 2A of the General Statutes, is rewritten to read as follows:

"(e) Any conveyance authorized by this section is subject to the provisions of G.S. 52-10 or G.S. 52-10.1, except that acknowledgment by the spouse of the grantor is not necessary."

Sec. 10. G.S. 39-13.4, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended in the last sentence of the section by deleting the language "G.S. 52-6 with respect to a certificate of private examination of the wife" and substituting therefor the following: "the provisions of G.S. 52-10 or G.S. 52-10.1".

Sec. 11. G.S. 39-13.5, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended in the paragraph numbered (1) immediately after the words "clearly stated in the granting clause of the deed or deeds to such tenant and his or her spouse, and further provided that" by deleting the remaining language of that numbered paragraph and substituting therefor the following: "the deed or deeds to such tenant in common and his or her spouse is signed by such tenant in common and is acknowledged before a certifying officer in accordance with G.S. 52-10;".

G.S. 39-13.5 is further amended in the paragraph numbered (2) immediately after the language "shall be owned by them as tenants by the entirety" by deleting the remaining language of that numbered paragraph and substituting therefor a period.

Sec. 12. The following amendments are hereby made to Chapter 47 as it appears in 1976 Replacement Volume 2A of the General Statutes:

a. G.S. 47-3 is amended on lines 6 and 7 by deleting the language ", and said commissioner may likewise take the acknowledgment and take such proof as to a married woman".

b. G.S. 47-5 is amended on line 3 by deleting the words "married woman or other".

c. G.S. 47-9 is amended on lines 1 and 2 by deleting the language ", including the privy examination of any married woman,"; G.S. 47-9 is further amended on line 5 by deleting the language ", proof or privy examination," and substituting therefor the words "or proof"; and, G.S. 47-9 is further amended on lines 7 and 8 by deleting the langauge ", proofs and privy examinations" and substituting therefor the words "or proofs".

d. G.S. 47-12 is amended on line 8 by deleting the language "G.S. 52-12" and substituting therefor the language "G.S. 52-10 or G.S. 52-10.1".

e. G.S. 47-12.1(b) is amended by deleting the language "G.S. 52-12" and substituting therefor the langauge "G.S. 52-10 or G.S. 52-10.1".

f. G.S. 47-13 is amended on line 6 by deleting the word "women" and substituting therefor the word "persons".

g. G.S. 47-38 is amended on lines 2 and 3 by deleting the language "or where a married woman is a grantor or maker,".

Sec. 13. G.S. 52-2, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 1 by deleting the language "G.S. 52-6" and substituting therefor the language "G.S. 52-10 or G.S. 52-10.1".

Sec. 14. G.S. 52-9, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 9 by deleting the following: "May 1, 1958, whichever date is later" and substituting therefor the following: "January 1, 1978, whichever date is earlier".

Sec. 15. G.S. 52-8, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on lines 2 and 3 by deleting the language "December 31, 1974" and substituting therefor the language "January 1, 1978".

Sec. 16. The following sections of the General Statutes are repealed: G.S. 39-10 and G.S. 47-39.

Sec. 17. This act shall become effective on January 1, 1978, and no provision of this act shall affect pending litigation.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 306 CHAPTER 376

AN ACT TO DELETE CERTAIN PROVISIONS OF G.S. 58-9 AND 58-63 RE PUBLICATION OF REPORTS AND FEES COLLECTED THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. Subsection (4) of G.S. 58-9 is amended by deleting therefrom the last sentence thereof which reads as follows:

"If the annual statement is made in compliance with the laws of this State, the Commissioner shall publish the abstract of the same, at the expense of the company, association, order or bureau making it, in one of the newspapers of the State, which newspaper may be selected by the company, association, order or bureau making the statement, if within 30 days after the filing of the statement the Commissioner is notified in writing of the name of the paper selected."

Sec. 2. Subsection (2) of G.S. 58-63 is hereby repealed and deleted in its entirety.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 546 CHAPTER 377

AN ACT TO AMEND G.S. 147-50 RELATING TO "PUBLICATIONS OF STATE OFFICIALS AND DEPARTMENT HEADS, FURNISHED TO CERTAIN INSTITUTIONS, AGENCIES, ETC.".

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-50 is hereby amended by adding the following sentence to the end of the paragraph:

"The provisions in this section shall not be interpreted to include any of the Appellate Division Reports or Advance Sheets distributed by the Administrative Office of the Courts."

Sec. 2. All laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 547 CHAPTER 378

AN ACT TO REPEAL G.S. 147-54 AND TO SUBSTITUTE THEREFOR PROVISIONS FOR THE DISTRIBUTION AND SALE OF THE NORTH CAROLINA MANUAL.

The General Assembly of North Carolina enacts:

Section 1. Section 147-54 is hereby repealed and the following is substituted in lieu thereof:

"§ 147-54. *Printing, distribution and sale of the North Carolina manual.*— The Secretary of State shall have printed biennially for distribution and sale, five thousand (5,000) copies of the North Carolina Manual, and shall make distribution to the State agencies, individuals, institutions and others as herein set forth.

NORTH CAROLINA STATE GOVERNMENT	
Members of the General Assembly	2 ea
Officers of the General Assembly	1 ea
Offices of the Clerk of each House of the General Assembly	1 ea
Legislative Services Officer	1
Legislative Library	6
Members of the Council of State	2 ea
Appointed Secretaries of Executive Departments	2 ea
Personnel of the Department of the Secretary of State	1 ea
State Board of Elections	2
Divisions of Archives and History, Director	1
Search Room	3
Publications Section	2
State Library	10
Libraries within State Agencies	1 ea
Justices of the North Carolina Supreme Court	1 ea
Judges of the North Carolina Court of Appeals	1 ea
Judges of the North Carolina Superior Court	1 ea
Supreme Court Library	12
Court of Appeals Library	2

Clerk of the Supreme Court	1
Clerk of the Court of Appeals	1
Reporter of the Supreme Court and Court of Appeals	1
Administrative Office of the Courts	5
NORTH CAROLINA EDUCATIONAL INSTITUTIONS:	
University of North Carolina System	
General Administration Offices	12
Chancellors of the Constituent Institutions	1 ea
University of North Carolina-Chapel Hill Library	15
North Carolina State University Library	5
East Carolina University Library	5
North Carolina Central University Library	5
Appalachian State University Library	4
University of North Carolina-Charlotte Library	4
University of North Carolina-Greensboro Library	4
Western Carolina University Library	4
Other Constituent Institutions Libraries	3 ea
North Carolina School of the Arts	2
Institute of Government	2
Community Colleges and Technical Institutes	2 ea
Private Colleges and Universities	
Duke University Library	6
Wake Forest University	6
Campbell College Library	5
Davidson College Library	4
All other Libraries of Senior and Junior Colleges	2 ea
Public and Private Schools containing grades 8-12	1 ea
COUNTY GOVERNMENT:	
Clerks of Court	1 ea
Registers of Deeds	1 ea
Public Libraries of North Carolina	1 ea
FEDERAL GOVERNMENT:	
President of the United States	1
North Carolina Members of the Presidential Cabinet	1 ea
North Carolina Members of the United States Congress	2 ea
Library of Congress	3
Resident Judges of the Federal Judiciary and United States Attorneys in North Carolina	1 ea
Secretaries of State of the United States and Territories	1 ea

After making the above distribution, the remainder shall be sold at the cost of publication plus tax and postage and the proceeds from such sales deposited with the State Treasurer for use by the Publications Division of the Secretary of State's Office to defray the expense of publishing the North Carolina Manual. Libraries and educational institutions not covered in the above distribution shall be entitled to a twenty percent (20%) discount on the cost of any purchase(s)."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 548 CHAPTER 379

AN ACT TO REVISE G.S. 147-45 IN RELATION TO THE DISTRIBUTION OF STATE PUBLICATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-45 of the North Carolina General Statutes is hereby revised and rewritten to read as follows:

"§ 147-45. *Distribution of copies of State publications.*—The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is set out in the table below:

AGENCY OR INSTITUTION	SESSION LAWS	ASSEMBLY JOURNALS
Governor, Office of the	3	2
Lieutenant Governor, Office of the	1	1
Secretary of State, Department of the	3	3
Auditor, Department of the State	3	1
Treasurer, Department of the State	3	1
Local Government Commission	2	0
Public Education, Department of	1	0
Superintendent of Public Instruction 3	1	
Controller	1	0
Division of Community Colleges	3	1
Regional Service Centers	1 ea.	0
Justice, Department of		
Office of the Attorney General	25	3
Budget Bureau (Administration)	1	0
Property Control (Administration)	1	1
State Bureau of Investigation	1	0
Agriculture, Department of	3	1
Labor, Department of	5	1
Insurance, Department of	5	1
Administration, Department of	1	1
Budget Bureau	2	1
Controller	1	0
Property Control	1	0
Purchase and Contract	2	0
Policy and Development	1	0
Veterans Affairs Commission	1	0
Natural and Economic Resources, Department		
Division of Parks and Recreation	1	0
Division of Environmental Management	2	0
Board of Natural and Economic Resources	1	0

Soil and Water Conservation Commission	1	0
Wildlife Resources Commission	2	0
Revenue, Department of	5	1
Human Resources, Department of	3	0
Board of Human Resources	1	0
Health Services, Division of	3	0
Mental Health Services, Division of	1	0
Social Services, Division of	3	0
Facilities Services, Division of	1	0
Youth Services, Division of	1	0
Hospitals and Institutions	1 ea.	0
Transportation, Department of	1	0
Board of Transportation	3	0
Motor Vehicles, Division of	1	0
Commerce, Department of	1	0
Economic Development, Division of	2	0
State Ports Authority	1	0
Alcoholic Beverage Control, State Bd. of	2	0
Banking Commission	2	0
Utilities Commission	8	1
Industrial Commission	7	0
Labor Force Development Council	1	0
Milk Commission	5	0
Employment Security Commission	1	1
Correction, Department of	1	0
Commission of Correction	2	0
Parole Commission	2	0
State Prison	1	0
Correctional Institutions	1 ea.	0
Cultural Resources, Department of	1	0
Archives and History, Division of	5	1
State Library	5	5
Publications Division	1	1
Crime Control and Public Safety, Dept. of	2	1
North Carolina Crime Commission	1	0
Adjutant General	2	0
Elections, State Board of	2	0
Legislative Branch		
State Senators	1 ea.	1 ea.
State Representatives	1 ea.	1 ea.
Principal Clerk - Senate	1	1
Principal Clerk - House	1	1
Reading Clerk - Senate	1	1
Reading Clerk - House	1	1
Sergeant-at-Arms - House	1	1
Sergeant-at-Arms - Senate	1	1
Enrolling Clerk	1	0
Engrossing Clerk	1	0
Indexer of the Laws	1	0
Legislative Building Library	25	15

Judicial System		
Justices of the Supreme Court	1 ea.	1 ea.
Judges of the Court of Appeals	1 ea.	1 ea.
Judges of the Superior Court	1 ea.	0
Emergency and Special Judges of the Superior Court	1 ea.	0
District Court Judges	1 ea.	0
District Attorneys	1 ea.	0
Clerk of the Supreme Court	1	1
Clerk of the Court of Appeals	1	1
Administrative Office of the Courts	4	1
Supreme Court Library	AS MANY AS REQUESTED	
Colleges and Universities		
The University North Carolina System		
Administrative Offices	3	0
University of North Carolina, Chapel Hill	65	25
University of North Carolina, Charlotte	3	1
University of North Carolina, Greensboro	3	1
University of North Carolina, Asheville	2	1
University of North Carolina, Wilmington	2	1
North Carolina State University, Raleigh	5	3
Appalachian State University	2	1
East Carolina University	3	2
Elizabeth City State University	2	1
Fayetteville State University	2	1
North Carolina Agricultural and Technical University	2	1
North Carolina Central University	5	5
Western Carolina University	2	1
Pembroke State University	2	1
Winston-Salem State University	2	1
North Carolina School of the Arts	1	1
Private Institutions		
Duke University	6	6
Davidson College	3	2
Wake Forest University	5	5
Lenoir Rhyne College	1	1
Elon College	1	1
Guilford College	1	1
Campbell College	5	5
Wingate College	1	1
Pfeiffer College	1	1
Barbara Scotia College	1	1

Atlantic Christian College	1	1
Shaw University	1	1
St. Augustine's College	1	1
J. C. Smith University	1	1
County and Local Officials		
Clerks of the Superior Court	1 ea.	1 ea.
Register of Deeds	1 ea.	1 ea.
Federal, Out of State and Foreign		
Secretary to the President	1	0
Secretary of State	1	1
Secretary of Defense	1	0
Secretary of Agriculture	1	0
Secretary of the Interior	1	0
Secretary of Labor	1	1
Secretary of Commerce	1	1
Secretary of the Treasury	1	0
Secretary of Health, Education and Welfare	1	0
Secretary of Housing and Urban Development	1	0
Secretary of Transportation	1	0
Attorney General	1	0
Postmaster General	1	0
Bureau of Census	1	0
Bureau of Public Roads	1	0
Department of Justice	1	0
Department of Internal Revenue	1	0
Veterans' Administration	1	0
Farm Credit Administration	1	0
Securities and Exchange Commission	1	0
Social Security Board	1	0
Environmental Protection Agency	1	0
Library of Congress	8	2
Federal Judges resident in North Carolina	1 ea.	0
Federal District Attorneys resident in North Carolina	1 ea.	0
Marshal of the United States Supreme Court	1	0
Federal Clerks of Court resident in North Carolina	1 ea.	0
Supreme Court Library exchange list	1 ea.	0

One copy of the Session Laws shall be furnished the head of any department of State Government created in the future.

State agencies, Institutions, etc., not found in or covered by this list may, upon written request from their respective department head to the Secretary of State, and upon the discretion of the Secretary of State as to need, be issued copies of the Session Laws on a permanent loan basis with the understanding that should said copies be needed they will be recalled."

Sec. 2. Chapter 7A, Article 29 ("Administrative Office of the Courts") is amended by adding the following section thereto:

"§ 7A-343.1. *Distribution of copies of the appellate division reports.*—The administrative officer of the courts shall, at the State's expense distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

Governor, Office of the	1
Lieutenant Governor, Office of the	1
Secretary of State, Department of the	2
Treasurer, Department of the State	1
Superintendent of Public Instruction	1
Office of the Attorney General	11
State Bureau of Investigation	1
Agriculture, Department of	1
Labor, Department of	1
Insurance, Department of	1
Budget Bureau, Department of Administration	1
Property Control, Department of Administration	1
State Planning, Department of Administration	1
Board of Natural and Economic Resources	1
Revenue, Department of	1
Board of Human Resources	1
Commission for the Blind	1
Board of Transportation	1
Motor Vehicles, Division of	1
Utilities Commission	1
Industrial Commission	8
Employment Security Commission	11
Commission of Correction	1
Parole Commission	1
Archives and History, Division of	1
State Library	1
Legislative Building Library	3
Justices of the Supreme Court	2
Judges of the Court of Appeals	1 ea.
Judges of the Superior Court	1 ea.
District Attorneys	1 ea.
Emergency and Special Judges of the Superior Court	1 ea.
Supreme Court Library	AS MANY AS REQUESTED
Appellate Division Reporter	1
University of North Carolina, Chapel Hill	71
University of North Carolina, Charlotte	1
University of North Carolina, Greensboro	1
University of North Carolina, Asheville	1
North Carolina State University, Raleigh	1
Appalachian State University	1
East Carolina University	1
Fayetteville State University	1
North Carolina Central University	17

Western Carolina University	1
Duke University	17
Davidson College	2
Wake Forest University	25
Lenoir Rhyne College	1
Elon College	1
Campbell College	17
Federal, Out of State and Foreign	
Secretary of State	1
Secretary of Defense	1
Secretary of Health, Education and Welfare	1
Secretary of Housing and Urban Development	1
Secretary of Transportation	1
Attorney General	1
Department of Justice	1
Internal Revenue Service	1
Veterans' Administration	1
Library of Congress	5
Federal Judges resident in North Carolina	1 ea.
Marshal of the United States Supreme Court	1
Federal District Attorneys resident in North Carolina	1 ea.
Federal Clerks of Court resident in North Carolina	1 ea.
Supreme Court Library exchange list	1

Each justice of the Supreme Court and judge of the Court of Appeals shall receive for his private use, one complete and up-to-date set of the Appellate Division Reports. The Copies of Reports furnished each justice or judge as set out in the table above may be retained by him personally to enable him to keep up-to-date his personal set of reports."

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 945 CHAPTER 380

AN ACT TO AUTHORIZE THE SECRETARY OF STATE TO DISPOSE OF SURPLUS COPIES OF THE PUBLIC LAWS AND SESSION LAWS OF NORTH CAROLINA.

Whereas, there now exists an excess quantity of several volumes of the Public Laws and Session Laws of North Carolina; and

Whereas, such volumes are stored in warehouse space needed for other uses; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Secretary of State is hereby authorized and directed to dispose of surplus volumes of the Public Laws and Session Laws of North Carolina in the following manner:

(a) For a period of three months following the ratification of this act, the Secretary of State shall offer all copies of any volume of the Public Laws or Session Laws of North Carolina in excess of an inventory for future use of 200

copies to State, county and municipal agencies, and public and private libraries and educational institutions in the State of North Carolina for the cost of postage and handling.

(b) After three months from the ratification of this act, the Secretary of State shall dispose of any remaining surplus copies in the manner provided for other surplus property in the rules and regulations of the Advisory Budget Commission.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 1039 CHAPTER 381

AN ACT TO REVISE THE CHARTER OF THE TOWN OF CASTALIA, NORTH CAROLINA, TO EXTEND THE TERM OF OFFICE OF THE BOARD OF COMMISSIONERS FROM TWO YEARS TO FOUR.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 716, of the 1959 Session Laws, is hereby amended on line 6 by deleting the word "two" and inserting in lieu thereof the word "four".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 1061 CHAPTER 382

AN ACT TO REWRITE G.S. 153A-60(4) TO PROVIDE FOR HOLDING REFERENDUM ON THE MODIFICATION OF THE STRUCTURE OF THE BOARDS OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-60(4) is rewritten to read as follows:

"(4) Call a special referendum on the question of adoption of the alterations. The referendum shall be held and conducted by the county board of elections. The referendum may be held at the same time as any other State, county or municipal primary, election, special election or referendum, or on any date set by the board of county commissioners, provided, that such referendum shall not be held within the period of time beginning 60 days before and ending 60 days after any other primary, election, special election or referendum held in the county."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 175 CHAPTER 383

AN ACT TO SET VENUE FOR ACTIONS TO RECOVER A DEFICIENCY JUDGMENT ON A SECURED DEBT.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 1 of the General Statutes, entitled "Venue" is hereby amended by adding a new section to be numbered G.S. 1-76.1 and to read as follows:

"§ 1-76.1. *Where the deficiency debtor resides or where the loan was negotiated.*—Subject to the power of the court to change the place of trial as provided by law, actions to recover a deficiency, which remains owing on a debt after secured personal property has been sold to partially satisfy the debt, must be brought in the county in which the debtor or debtor's agent resides or in the county where the loan was negotiated."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 375 CHAPTER 384

AN ACT TO AMEND G.S. 66-68 TO RELIEVE CERTAIN PARTNERSHIPS ENGAGED IN THE PRACTICE OF CERTIFIED PUBLIC ACCOUNTANCY FROM THE REQUIREMENT OF FILING CERTIFICATES OF ASSUMED NAME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-68 is hereby amended by inserting the words "Unless exempt under subsection (e) hereof," and changing the capital "B" in the word "Before" to lower case at the beginning of subsection (a) thereof and by adding a new subsection (e) at the end thereof which shall read as follows:

"(e) Any partnership engaged in the practice of certified public accountancy in this State shall be exempt from the requirements of this Section if it shall file annually with the North Carolina State Board of Certified Public Accountant Examiners, or at such intervals as shall be designated from time to time by such board, a listing of the names and addresses of its partners (including both residents and nonresidents of this State); and such listing shall be open to public inspection during normal working hours."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

S. B. 187 **CHAPTER 385**

AN ACT TO AMEND AND TO CORRECT OMISSIONS AND INTERNAL INCONSISTENCIES IN CHAPTER 159B OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. All references in this act to portions of Chapter 159B of the General Statutes refer to Chapter 159B as it appears in Volume 3D (1976 Replacement Volume) of the General Statutes.

Sec. 2. G.S. 159B-4 is hereby amended by rewriting the first paragraph thereof to read as follows:

"In addition and supplemental to the powers otherwise conferred on municipalities by the laws of the State, and in order to accomplish the purposes of this Chapter and to obtain a supply of electric power and energy for the present and future needs of its inhabitants and customers, a municipality may plan, finance, develop, construct, reconstruct, acquire, improve, enlarge, better, own, operate and maintain an undivided interest as a tenant in common in a project situated within or without the State jointly with one or more municipalities in this State or any state contiguous to this State owning electric distribution facilities or with any political subdivisions, agencies or instrumentalities of any state contiguous to this State or with joint agencies created pursuant to this Chapter, and may make such plans and enter into such contracts in connection therewith, not inconsistent with the provisions of this Chapter, as are necessary or appropriate."

Sec. 3. G.S. 159B-9 is hereby amended by rewriting the third paragraph of subsection (a) to read as follows:

"If each governing board shall determine that it is in the best interest of the municipality to create a joint agency to provide power and energy to the municipality as provided in this Chapter, each shall adopt a resolution or ordinance so finding (which need not prescribe in detail the basis for the determination), and which shall set forth the names of the municipalities which are proposed to be initial members of the joint agency. The governing board of the municipality shall thereupon by ordinance or resolution appoint one commissioner of the joint agency who may, at the discretion of the governing board, be an officer or employee of the municipality."

Sec. 4. G.S. 159B-9(c) is hereby rewritten to read:

"(c) The joint agency shall consist of a board of commissioners appointed by the respective governing boards of the municipalities which are members of the joint agency. Each commissioner shall have not less than one vote and may have in addition thereto such additional votes as the governing boards of a majority of the municipalities which are members of the agency shall determine. Each commissioner shall serve at the pleasure of the governing board by which he was appointed. Each appointed commissioner before entering upon his duties shall take and subscribe to an oath before some person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of each such oath shall be filed with the governing board of the appointing municipality and spread upon its minutes."

Sec. 5. G.S. 159B-10 is hereby rewritten to read as follows:

"§ 159B-10. *Executive committee, composition; powers and duties; terms.*— The board of commissioners of a joint agency may create an executive

committee of the board of commissioners. The board may provide for the composition of the executive committee so as to afford, in its judgment, fair representation of the member municipalities. The executive committee shall have and shall exercise such of the powers and authority of the board of commissioners during the intervals between the board's meetings as shall be prescribed in the board's rules, motions and resolutions. The terms of office of the members of the executive committee and the method of filling vacancies therein shall be fixed by the rules of the board of commissioners of the joint agency."

Sec. 6. G.S. 159B-11(10) is hereby rewritten to read as follows:

"(10) To study, plan, finance, construct, reconstruct, acquire, improve, enlarge, extend, better, own, operate and maintain one or more projects, either individually or jointly with one or more municipalities in this State or any state contiguous to this State owning electric distribution facilities or with any political subdivisions, agencies or instrumentalities of any state contiguous to this State or with other joint agencies created pursuant to this Chapter, and to pay all or any part of the costs thereof from the proceeds of bonds of the joint agency or from any other funds made available to the joint agency;".

Sec. 7. G.S. 159B-11(12) is hereby rewritten to read as follows:

"(12) To acquire by private negotiated purchase or lease or otherwise an existing project, a project under construction, or other property, either individually or jointly, with one or more municipalities in this State or any state contiguous to this State owning electric distribution facilities or with any political subdivisions, agencies or instrumentalities of any state contiguous to this State or with other joint agencies created pursuant to this Chapter; to acquire by private negotiated purchase or lease or otherwise any facilities for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water, and to enter into agreements by private negotiation or otherwise, for a period not exceeding fifty (50) years, for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water; no provisions of law with respect to the acquisition, construction or operation of property by other public bodies shall be applicable to an agency created pursuant to this act unless the legislature shall specifically so state;".

Sec. 8. G.S. 159B-11(13) is hereby rewritten to read as follows:

"(13) To dispose of by private negotiated sale or lease, or otherwise an existing project, a project under construction, or other property either individually or jointly with one or more municipalities in this State or any state contiguous to this State owning electric distribution facilities or with any political subdivisions, agencies or instrumentalities of any state contiguous to this State or with other joint agencies created pursuant to this Chapter; to dispose of by private negotiated sale or lease, or otherwise any facilities for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water; no provisions of law with respect to the disposition of property by other public bodies shall be applicable to an agency created pursuant to this act unless the legislature shall specifically so state;".

Sec. 9. G.S. 159B-11(16) is hereby rewritten to read as follows:

"(16) To negotiate and enter into contracts for the purchase, sale, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy with any municipality in this State or any other state owning electric distribution facilities or with any political subdivisions, agencies or instrumentalities of any other state or with other joint agencies created pursuant to this Chapter, any electric membership corporation, any public utility, and any state, federal or municipal agency which owns electric generation, transmission or distribution facilities in this State or any other state;".

Sec. 10. G.S. 159B-11 is hereby amended by renumbering subparagraph (20) of the first paragraph thereof from number (20) to number (21) and by substituting therefor a new paragraph (20) to read as follows:

"(20) To purchase power and energy and related services from any source on behalf of its members and other customers and to sell the same to its members and other customers in such amounts, with such characteristics, for such periods of time and under such terms and conditions as the board of commissioners of the joint agency shall determine;".

Sec. 11. G.S. 159B-13 is hereby rewritten to read as follows:

"§ 159B-13. *Sale of excess capacity and output by a joint agency.*—A joint agency may sell or exchange the excess capacity or output of a project not then required by any of its members, for such consideration and for such period and upon such other terms and conditions as may be determined by the parties, to any municipality in this State or any other state owning electric distribution facilities, to any political subdivisions, agencies or instrumentalities of any other state, to other joint agencies created pursuant to this Chapter, to any electric membership corporation or public utility authorized to do business in this State, or to any other state, federal or municipal agency which owns electric generation, transmission or distribution facilities. Provided, however, that the foregoing limitations shall not apply to the temporary sale of excess capacity and energy without the State in cases of emergency or when required to fulfill obligations under any pooling or reserve sharing agreements; provided further, however, that sales of excess capacity or output of a project to electric membership corporations, public utilities, and other persons, the interest on whose securities and other obligations is not exempt from taxation by the federal government, shall not be made in such amounts, for such periods of time, and under such terms and conditions as will cause the interest on bonds issued to finance the cost of a project to become taxable by the federal government."

Sec. 12. G.S. 159B-27 is hereby amended to read as follows:

"§ 159B-27. *Taxes; payments in lieu of taxes.*—(a) A project jointly owned by municipalities or owned by a joint agency shall be exempt from property taxes; provided, however, that each municipality possessing an ownership share of a project, and a joint agency owning a project, shall, in lieu of property taxes, pay to any governmental body authorized to levy property taxes the amount which would be assessed as taxes on real and personal property of a project if such project were otherwise subject to valuation and assessment by the State Board of Assessment. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the cases of taxes on other property. Payments in lieu of

taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(b) Each municipality having an ownership share in a project shall pay to the State in lieu of an annual franchise or privilege tax an amount equal to six percent (6%) of that percentage of all monies expended by said municipality on account of its ownership share, including payment of principal and interest on bonds issued to finance such ownership share, which is equal to the percentage of such city or town's total entitlement that is used or sold by it to any person, firm or corporation exempted by law from the payment of the tax on gross receipts pursuant to G.S. 105-116.

(c) Each joint agency shall pay to the State in lieu of an annual franchise or privilege tax an amount equal to six percent (6%) of the gross receipts from sales of electric power and energy, less, however, such amounts as such joint agency pays for the purchase of electric power and energy from vendors taxed on such amounts under G.S. 105-116 and less amounts sold to any other person, firm or corporation engaged in selling such commodities or services to the public for which taxes are paid to this State.

(d) The State shall distribute to cities and towns which receive electric power and energy from their ownership share of a project or to which electric power and energy is sold by a joint agency an amount equal to a tax of three percent (3%) of all monies expended by a municipality on account of its ownership share of a project, including payment of principal and interest on bonds issued to finance such ownership share, or an amount equal to a tax of three percent (3%) of the gross receipts from all sales of electric power and energy to such city or town by a joint agency, as the case may be.

(e) The reporting, payment and collection procedures contained in G.S. 105-116 shall apply to the levy herein made.

(f) Except as herein expressly provided with respect to jointly owned projects or projects owned by a joint agency no other property of a municipality used or useful in the generation, transmission and distribution of electric power and energy shall be subject to payments in lieu of taxes."

Sec. 13. G.S. 159B-35 is hereby amended by rewriting the last sentence thereof to read:

"Nothing in this Chapter shall be construed to authorize the issuance of bonds for the purpose of financing facilities to be owned exclusively by any private corporation."

Sec. 14. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

S. B. 298 **CHAPTER 386**

AN ACT TO CLARIFY REQUIREMENT OF CANDIDATE SEEKING NOMINATION BY FILING PETITION IN LIEU OF PAYING FILING FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-107.1(c) is amended by rewriting the second sentence as follows:

"The petition shall be signed by ten percent (10%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 200 registered voters regardless of said voter's political party affiliation, whichever requirement is greater."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

S. B. 481 **CHAPTER 387**

AN ACT TO AMEND G.S. 139-7 TO CHANGE PERTINENT DATES IN THE APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICTS' SUPERVISORS.

Whereas, newly elected supervisors of soil and water conservation districts may not be as familiar with qualifications necessary for appointive supervisors as the previous district board, it is desirable that recommendations for appointive supervisors be made prior to the November elections; and

Whereas, appointive supervisors should take office at the same time as elective supervisors; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 139-7, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby rewritten to read as follows:

"§ 139-7. *District board of supervisors; appointive members; organization of board; certain powers and duties.*—The governing body of a soil and water conservation district shall consist of three elective supervisors from the county or counties in the district, together with the appointive members appointed by the Soil and Water Conservation Commission pursuant to this section, and shall be known as the district board of supervisors. When a district is composed of less than four counties, the elective supervisors of each county shall on or before October 31, 1978, and on or before October 31 as the terms of the appointive supervisors expire, recommend in writing two persons to the commission to be appointed to serve with the elective supervisors. If the names are not submitted to the commission as required, the commission shall appoint two persons of the district to the district board of supervisors to serve with the elected supervisors. The commission shall make its appointments prior to or at the November meeting of the commission. Appointive supervisors shall take office on the first Monday in December following their appointment. Such appointive supervisors shall serve for a term of four years, and thereafter, as their terms expire, their successors shall serve for a term of four years. The

terms of office of all appointive supervisors who have heretofore been lawfully appointed for terms the final year of which presently extends beyond the first Monday in December are hereby terminated on the first Monday in December of the final year of appointment. Vacancies for any reason in the appointive supervisors shall be filled for the unexpired term by the appointment of a person by the commission from the district in which the vacancy occurs. Vacancies for any reason in the elected supervisors shall be filled for the unexpired term by appointment by the commission of a person from the county in the district in which the vacancy occurs."

Sec. 2. The effective date of this act is July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

S. B. 496 CHAPTER 388

AN ACT TO EXEMPT CERTAIN PROPERTY OWNED BY THE FRANKLINTON CITY SCHOOL ADMINISTRATIVE UNIT FROM G.S. 115-131.

Whereas, on November 20, 1923, S. C. Vann conveyed to the Board of Trustees for the Franklinton Public Schools, located in the Town of Franklinton, North Carolina, the following described tract of land:

"Commencing at the corner of Main and Vine Streets and running thence Westwardly to Hillsboro Street; thence Southwardly along Hillsboro Street to its intersection with Mason Street; thence Eastwardly along Mason Street to the Citizens Bank lot; thence Northerly along the line of the Citizens Bank lot and the Bullock lot to Bullock's corner; thence Eastwardly about 50 feet to Main Street; thence Northerly along Main Street to point of beginning. It being the lots purchased by said S. C. Vann of J. B. Brewer and wife, Bettie Brewer, Josephine Henderson lot on Main and Vine Streets, and the Mollie Harris lot on Vine Street, containing the grounds and building of the Franklinton Public School, erected and donated by said S. C. Vann for educational purposes exclusively."

Whereas, said deed was recorded in the public registry, Franklinton, North Carolina, in Book 261, at page 355, on the fourth day of September, 1924; and

Whereas, said deed contained, among other restrictions, that the said Board of Trustees for the Franklinton Public School was "to have and to hold said property, with the rights, privileges and appurtenances thereto belonging to the said parties of the second part and their successors in office forever, upon the following uses and trusts, namely: The said buildings and grounds shall be used exclusively and perpetually for the education of the white race resident in Franklinton Township, Franklin County, North Carolina, and for no other or further purposes."; and

Whereas, the said restrictions as set out in the deed created defeasible title to the described tract which is now held by operation of law by the Franklinton City Board of Education; and

Whereas, since this property has been in the possession of the Franklinton City Board of Education, extensive improvements have been made to the property, and it has been continuously used for public school purposes, and continues to be so used; and

Whereas, in 1955, the General Assembly of the State of North Carolina enacted G.S. 115-131, which states in part that "County and city boards of education shall make no contract for the erection or repair of any school building unless the site upon which it is located is owned in fee simple by the said board"; and

Whereas, the Franklinton City Board of Education must make contracts for erections of new improvements or repairs to the existing school buildings which are located on the described tract, or the board will be unable to use the described premises for school purposes and will lose its substantial investment therein; and

Whereas, it is deemed in the best interest that the Franklinton City Board of Education should be empowered to enter into the necessary contracts for the erection of new improvements and repairs to the existing improvements on the school site, in order to continue to use it for public school purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The following tract of land currently owned and operated by the Franklinton City Board of Education be and it hereby is exempted from the operation and provisions of G.S. 115-131, said tract described as follows:

"Commencing at the corner of Main and Vine Streets and running thence Westwardly to Hillsboro Street; thence Southwardly along Hillsboro Street to its intersection with Mason Street; thence Eastwardly along Mason Street to the Citizens Bank lot; thence Northerly along the line of the Citizens Bank lot and the Bullock lot to Bullock's corner; thence Eastwardly about 50 feet to Main Street; thence Northerly along Main Street to point of beginning. It being the lots purchased by said S. C. Vann of J. B. Brewer and wife, Bettie Brewer, Josephine Henderson lot on Main and Vine Streets, and the Mollie Harris lot on Vine Street, containing the grounds and building of the Franklinton Public School, erected and donated by said S. C. Vann for educational purposes exclusively."

Sec. 2. The Franklinton City Board of Education is empowered and authorized by vote of a majority of the board to enter into contracts for the erection of new improvements and for the repair of any existing buildings or improvements on the school site as otherwise provided by law and to further make any contracts or agreements necessary or convenient to carry out such purposes.

Sec. 3. This act shall become effective upon ratification, and shall apply only to the described tract of land under the control and supervision of the Franklinton City Board of Education.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

S. B. 564 **CHAPTER 389**

AN ACT TO AMEND CHAPTER 7A TO VALIDATE ALL OFFICIAL ACTIONS OF DISTRICT COURT JUDGES OF THE 25TH JUDICIAL DISTRICT PERFORMED AFTER MANDATORY RETIREMENT AGE.

The General Assembly of North Carolina enacts:

Section 1. Article 1B, Chapter 7A of the General Statutes is hereby amended by adding a new section thereto to be designated as G.S. 7A-4.21 to read as follows:

"§ 7A-4.21. *Validation of official actions of district court judges of the 25th Judicial District performed after mandatory retirement age.*—No official action performed by any judge of the 25th Judicial District of the district court division of the General Court of Justice shall be declared to be invalid by reason of the fact that the judge was beyond the mandatory retirement age set out in G.S. 7A-4.20 at the time of his performing any such act; provided this section shall only apply to those official actions performed prior to May 1, 1977."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

H. B. 733 **CHAPTER 390**

AN ACT TO AMEND G.S. 97-85 OF THE WORKMEN'S COMPENSATION ACT CONCERNING THE REVIEW OF AWARDS OF THE INDUSTRIAL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-85 is hereby amended by adding at the end of such section the following:

"Provided further, the chairman of the Industrial Commission shall have the authority to designate a deputy commissioner to take the place of a commissioner on the review of any case, in which event the deputy commissioner so designated shall have the same authority and duty as does the commissioner whose place he occupies on such review."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

H. B. 760 **CHAPTER 391**

AN ACT REQUIRING THE PAYMENT OF DELINQUENT TAXES IN CASWELL COUNTY BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO DELINQUENT TAXES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of G.S. 161-16, on and after July 1, 1977, the Register of Deeds of Caswell County shall not receive for recordation any deed unless the same is accompanied by a certificate from the Caswell County Tax Collector to the effect that all delinquent taxes upon the property described in the deed offered for recordation have been paid.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

H. B. 767 CHAPTER 392

AN ACT TO GRANT AUTHORITY TO THE TOWN OF LIBERTY TO MAKE AND TO ASSESS COST FOR STREET IMPROVEMENTS.

The General Assembly of North Carolina enacts:

Section 1. In addition to the authority that may now or hereafter be granted by general law to the Town of Liberty for making street improvements and providing for the assessment of costs thereof against abutting property owners, the town council is authorized to make street improvements and assess the cost thereof in accordance with the requirements of this act.

Sec. 2. Whenever a majority of the owners owning a majority of the lineal footage of property abutting a street which is not more than six blocks in length or a maximum total distance of 3,000 lineal feet, are unwilling or fail to petition for a needed street improvement, the town council may order such improvement without petition, and may assess the total cost, or any part thereof, less the cost at street intersections, against the abutting property owners at an equal rate per front foot; provided, no street improvement without petition shall be ordered or undertaken and the cost thereof assessed to abutting property owners as authorized herein unless and until the town council finds as a fact:

(a) that the street improvement project does not exceed six blocks in length or a maximum total distance of 3,000 linear feet; and

(b) that such street or part thereof is unsafe for vehicular traffic and it is in the best public interest to make such improvement; or

(c) that it is in the best public interest and for the welfare of the citizens of the town to connect two streets already paved.

Sec. 3. Street improvements authorized by this act shall include grading, regrading, surfacing or resurfacing, widening, and the construction or reconstruction of curbs, gutters and street drainage facilities.

Sec. 4. In ordering street improvements and levying assessments for the cost thereof under the authority granted by this section, the town council shall pass and publish a resolution in substantial compliances with G.S. 160A-223, levy the assessments and prepare an assessment roll in compliance with G.S. 160A-227 and G.S. 160A-228 and advertise and conduct a public hearing in compliance with G.S. 160A-224 and G.S. 160A-225; provided, no improvement authorized herein or the procedure authorized hereby shall be applicable or permit assessments for sidewalk or utility improvements. In addition, the provisions of G.S. 160A-229 through G.S. 160A-238 shall be applicable when the authority authorized by this act is exercised.

Sec. 5. The authority granted to the Town of Liberty by this act shall not be exercised by the town council unless four of the five members of the town council who are present and voting at a regular or special meeting cast their vote in favor of the use of this method for improving a street or part of a street in accordance with the requirements of this act.

Sec. 6. All laws in conflict with this act are hereby repealed.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

H. B. 834 CHAPTER 393

AN ACT TO AUTHORIZE CERTAIN INCORPORATED TOWNS IN MECKLENBURG COUNTY TO EXERCISE EXTRATERRITORIAL ZONING.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of any local, special or general law, the Towns of Davidson, Cornelius, and Huntersville in Mecklenburg County are authorized to exercise within a defined area extending not more than one mile beyond the corporate limits, the zoning authority contained in Part 3 of Article 19 of Chapter 160A of the General Statutes.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

H. B. 886 CHAPTER 394

AN ACT TO ANNEX TWO NONCONTIGUOUS SUBDIVISIONS AND ONE CONTIGUOUS SUBDIVISION TO THE TOWN OF NASHVILLE.

The General Assembly of North Carolina enacts:

Section 1. The following subdivisions are hereby annexed to the Town of Nashville and shall be treated for all intents and purposes as if the subdivisions had been annexed under the procedures of Chapter 112 of the 1973 Session Laws.

(a) J. Claude Mayo, Jr., Subdivision Section I.

BEGINNING at an iron stake located at the intersection of the Western right of way of North Carolina Highway 58 with the Southern right of way of Essex Road (as shown on Map recorded in Map Book 11, Page 64, Nash County Registry); thence along the right of way of North Carolina Highway 58 S. 39° 56' E. 100 feet; thence S. 50° 4' W. 198.20 feet; thence S. 21° 21' E. 27.75 feet; thence S. 68° 39' W. 211 feet; thence S. 22° 7' E. 6.25 feet; thence S. 7° 33' W. 567.52 feet; thence S. 28° 32' W. 86.2 feet; thence S. 57° 25' W. 786.10 feet; thence S. 69° 42' W. 200 feet; thence N. 49° 53' W. 99.34 feet; thence N. 17° 55' E. 295 feet; thence N. 59° 55' W. 160.77 feet; thence N. 17° 55' E. 114.6 feet; thence N. 15° 44' E. 55.40 feet; thence due North 130 feet; thence N. 8° W. 113.07 feet; thence N. 82° E. 160 feet; thence along the Board of Education line N. 77° 31' E. 617.50 feet; thence continuing along the Board of Education line N. 8° 59' W. 561.4 feet; thence N. 62° 1' E. 294.2 feet; thence along the Viverette lines S. 39° 21' E. 273.65 feet; thence N. 68° 39' E. 253 feet to the Western right of way of North Carolina Highway 58; thence along the Western right of way of North Carolina Highway 58 S. 39° 56' E. 60 feet to the BEGINNING and being that land contained within Section 1 of the J. Claude Mayor, Jr. subdivision as shown on map recorded in Map Book 11, Page 64, Nash County Registry.

(b) Regency Estates.

BEGINNING at an iron stake on Mill Branch in the line of J. E. Davenport, said beginning point being the Northwest corner of the J. E. Davenport property as shown on map or plat hereinafter referred to; thence

along Mill Branch N. 12° 11' W. 67.3 feet, N. 36° 29' W. 83 feet, S. 87° 00' W. 62 feet, N. 12° 00' W. 196 feet, N. 15° 10' W. 52 feet, N. 72° 55' W. 82 feet, N. 2° 5' E. 88 feet, N. 23° 25' W. 61 feet, N. 58° 25' W. 51 feet, N. 76° 25' W. 108 feet, to an iron stake; thence along the old high water mark, N. 16° 25' W. 188 feet, N. 21° 25' W. 182 feet, N. 22° 25' W. 38.35 feet to an iron stake on the Southern right of way of U. S. Highway 64 By-Pass; thence along the Southern right of way of U. S. Highway 64 By-Pass, N. 67° 39' E. 288.03 feet, N. 24° 59' W. 22.25 feet; thence N. 67° 23' E. 236.41 feet, N. 67° 06' E. 300 feet, N. 68° 46° E. 300 feet, N. 72° 06' E. 300 feet, N. 75° 00' E. 200 feet, N. 27° 09' E. 39.2 feet, N. 78° 14' E. 202.9 feet, N. 81° 00' E. 230 feet, N. 84° 10' E. 250 feet, N. 86° 40' E. 229.87 feet to an iron stake on the Southern right of way of U. S. Highway 64 By-Pass in the line of L. E. Jones; thence along the line of L. E. Jones, S. 28° 6' W. 1,761.35 feet to an iron stake in the line of Stone; thence along the line of Stone, N. 37° 31' W. 84.08 feet; thence continuing along the line of Stone, S. 76° 53' W. 80.98 feet to an iron stake on the Eastern right of way of Regency Drive; thence across Regency Drive and along the property line of J. E. Davenport, S. 76° 53' W. 646.56 feet to an iron stake on the Eastern right of way of Prince William Avenue: thence across Prince William Avenue S. 67° 53' W. 64.10 feet; thence continuing along the property line of J. E. Davenport S. 76° 53' W. 223.90 feet to an iron stake on Mill Branch, the point of BEGINNING and being that land contained within Regency Estates, Property of Regency Estates, Inc., as shown on Subdivision Map recorded in Plat Book 11, Page 10, Nash County Registry.

Sec. 2. The corporate limits of the Town of Nashville are hereby enlarged and extended by annexing thereto the following described area:

BEGINNING at an iron stake on the Southern right of way of S.R. No. 1717 (East Washington Street), the Northwest corner of the E.L. Garner lot; thence along the Garner lot S. 10° 44' W. 267.66 feet to an iron stake; thence along the line of E.L. Garner and C.E. Branch, S. 83° 19' E. 337.87 feet to an iron found in the line of Braswell; thence along the line of Braswell S. 33° 42' W. 1,271.42 feet to an iron stake; thence along the present City limits line, N. 7° 45' W. 696.52 feet to an iron found, N. 22° 38' E. 239.8 feet , N. 6° E. 176.52 feet, N. 6° 5' W. 129.86 feet, S. 87° 40' E. 171.37 feet, N. 21° 39' E. 80.2 feet, S. 81° 17' E. 137.63 feet, N. 10° 44' E. 106.8 feet to an iron stake on the Southern right of way of S.R. No. 1717 (East Washington Street); thence along the Southern right of way of S.R. No. 1717 (East Washington Street) S. 83° 19' E. 60.16 feet to an iron stake on the Southern right of way of S.R. No. 1717 (East Washington Street), the point of BEGINNING, containing 11.40 acres.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

H. B. 944 **CHAPTER 395**

AN ACT CONCERNING PAYMENT OF INTEREST ON LIFE INSURANCE DEATH BENEFITS FROM DATE OF DEATH TO DATE OF PAYMENT TO BENEFICIARY.

The General Assembly of North Carolina enacts:

Section 1. Article 22, Chapter 58 of the General Statutes of North Carolina as the same appears in 1974 Replacement Volume 2B and 1975 Cumulative Supplement to Volume 2B is hereby amended by adding thereto a new section to read as follows:

"§ 58-205.3. *Interest payments on death benefits.*—(a) Each insurer admitted to transact life insurance in this State which, without the written consent of the beneficiary, fails or refuses to pay the death proceeds or death benefits in accordance with the terms of any policy of life or accident insurance issued by it in this State within 30 days after receipt of satisfactory proof of loss because of the death, whether accidental or otherwise, of the insured shall pay interest, at a rate not less than the then current rate of interest on death proceeds left on deposit with the insurer computed from the date of the insured's death, on any monies payable and unpaid after the expiration of such 30-day period.

(b) Within the meaning of this section, payment of proceeds or benefits shall be deemed to have been made on the date upon which a check, draft or other valid instrument equivalent to the payment of money was placed in the United States mails in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery of such instrument to the beneficiary.

(c) Nothing contained herein shall be construed to allow any insurer admitted to transact life insurance in this State to withhold payment of money payable under a life or accident insurance policy issued in this State to any beneficiary for a period longer than reasonably necessary to determine whether benefits are payable and thereafter to transmit such payment.

(d) This act shall not apply to policies of insurance issued prior to the effective date of this act to the extent that such policies contain specific provisions in conflict with this act."

Sec. 2. This act shall become effective 90 days after ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

H. B. 1043 **CHAPTER 396**

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF MAGNOLIA.

The General Assembly of North Carolina enacts:

Section 1. The following described territory is hereby annexed to, and made a part of, the corporate limits of the Town of Magnolia:

Being a certain tract or parcel of land, known as the Magnolia Cemetary, and being contiguous to that portion of the Magnolia Cemetary, which is located within the corporate limits of the Town of Magnolia, and lying on the Western edge of the Magnolia corporate limits, and beginning at a point on the Southern edge of the Magnolia Cemetary, where it is intersected by the Western corporate limits, and being on the Northern edge of a road, and runs West with the Northern edge of the aforementioned road, approximately 75

feet to the curve of said road; thence running with the Eastern edge of said road, parallel with the Western corporate limits, approximately 694 feet to a point where the road curves; thence with the Southern edge of said road, running in an Easterly direction, approximately 75 feet to where the road intersects with the Western corporate limits of the Town of Magnolia; thence South with the Western corporate limits of the Town of Magnolia, 712 feet, more or less, to where said corporate limits intersect with the aforementioned road to the point of beginning.

Sec. 2. All laws or portion of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

S. B. 31 CHAPTER 397

AN ACT PROHIBITING THE RECEIVING OF COMPENSATION BY ANYONE AIDING OR ASSISTING A PERSON IN OBTAINING EMPLOYMENT WITH THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Compensation for assisting person in obtaining State employment barred. It shall be unlawful for any person, firm or corporation to collect, accept or receive any compensation, consideration or thing of value for obtaining on behalf of any other person, or aiding or assisting any other person in obtaining employment with the State of North Carolina; provided, however, any person, firm, or corporation that is duly licensed and supervised by the North Carolina Department of Labor as a private employment service acting in the normal course of business, may collect such regular and customary fees for services rendered pursuant to a written contract when such fees are paid by someone other than the State of North Carolina; however, any person, firm, or corporation collecting fees for this service must have been licensed by the North Carolina Department of Labor for a period of not less than one year.

Any person, firm or corporation collecting fees for this service must make a monthly report to the Department of Labor listing the name of the person, firm or corporation collecting fees and the person for whom a job was found, the nature and purpose of the job obtained, and the fee collected by the person, firm or corporation collecting the fee. Violation of this section shall constitute a misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court.

Sec. 2. This act shall not affect existing contracts.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1977.

H. B. 430

CHAPTER 398

AN ACT TO PROVIDE FOR TRAFFIC CONTROL AUTHORITY TO RELIGIOUS ORGANIZATIONS AND ASSEMBLIES ON PROPERTY OWNED OR LEASED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 61 of the General Statutes is hereby amended by adding a new section to be designated G.S. 61-7 and to read as follows:

"§ 61-7. *Governing body of assembly authorized to adopt traffic regulations.*— (a) The governing body of any religious organization or assembly may by appropriate resolution establish rules and regulations with respect to the use of the streets, roads, alleys, driveways, and parking lots on the grounds or premises owned or under the exclusive control of such organization, and it shall be unlawful for any person to park a motor vehicle or other vehicle on the streets, roads or on the premises of a religious assembly where parking has been prohibited by the religious assembly by the erection of 'No Parking' signs at each space on the street, road or on the premises where parking is prohibited. Each space in which parking is prohibited shall be clearly designated as such by a sign no smaller than 24 inches by 24 inches. All rules and regulations adopted pursuant to the authority of this section shall be recorded in the proceedings of said governing body and copies thereof shall be filed in the office of the Secretary of State of North Carolina.

(b) It shall be unlawful for any person to park a motor vehicle or other vehicle in a parking space on the streets, roads, or premises of a religious assembly where the parking space has been designated by the religious assembly as being limited to a named individual or to a person holding a named position with the assembly; provided, that such private parking space or private parking lot be clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at the entrance to the parking lot, if within a parking lot, and provided further that the private parking spaces within the lot or the private parking spaces on the streets, roads or on the premises of the religious assembly be clearly marked by signs setting forth the names of each individual for whom the space is reserved or the name of the position held with the assembly for which space is reserved.

(c) It shall be unlawful for any person to park a motor vehicle or other vehicle on the streets or roads of a religious assembly, except where parking is expressly designated, so as to interfere with, or obstruct the free flow of vehicular traffic on the streets or roads within the assembly grounds.

(d) It shall be unlawful for any person to park a motor vehicle or other vehicle at the entrance to any driveway on the grounds of a religious assembly so as to block the driveway.

(e) Any vehicle parked in violation of paragraphs (a), (b), (c), or (d) may be removed by the assembly, or its agents, or its employees to a place of storage and the registered owner of such motor vehicle shall become liable for removal and storage charges. The assembly, nor any party acting under the directions of the assembly, shall be held to answer any civil or criminal action to any owner, lienholder, or other person legally entitled to the possession of any motor vehicle removed from such parking space or parking lot pursuant to paragraphs (a), (b), (c), or (d) except where such motor vehicle is willfully, maliciously or negligently damaged in the removal from the aforesaid space to place of storage.

(f) A 'religious assembly' is defined as being a corporation or association formed for the purpose of providing a resort community for religious and recreational purposes and where the streets and roads are solely maintained by the religious assembly without governmental funds."

Sec. 2. G.S. 14-401.9 is hereby amended by striking the second paragraph thereof which reads, "The provisions of this section shall only apply to parking spaces located within the corporate limits of municipalities."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1977.

H. B. 589 CHAPTER 399

AN ACT TO AUTHORIZE TOWNS IN BRUNSWICK COUNTY HAVING LESS THAN 500 POPULATION TO HOLD MALT BEVERAGES AND UNFORTIFIED WINE ELECTIONS AS AUTHORIZED IN CHAPTER 18A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the population limitation in G.S. 18A-52, any municipality in Brunswick County having a population of less than 500 is authorized to hold malt beverage and unfortified wine elections as provided in G.S. 18A-52 and G.S. 18A-53. Provided, however, that in the Town of Ocean Isle only those issues relating to the "off-premises" sale of malt beverages and unfortified wine may be submitted in any such election and only the "off-premises" sales of these beverages are authorized.

Sec. 2. The Town of Long Beach is hereby authorized to hold, in accordance with the provisions of G.S. 18A-52 and G.S. 18A-53, an election on the issue of whether malt beverages or unfortified wine, or both, may be sold "on-premises". Provided, however, that any election held pursuant to this act on the issue of "on-premises" sales of malt beverages or wine, or both, shall in no way affect the results of any past referendum approving the "off-premises" sale of malt beverages and wine.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1977.

H. B. 681 CHAPTER 400

AN ACT TO AMEND ARTICLE 5A OF CHAPTER 122 TO PROVIDE FOR THE INVOLUNTARY COMMITMENT OF PERSONS WHO ARE MENTALLY RETARDED AND, BECAUSE OF AN ACCOMPANYING BEHAVIOR DISORDER, ARE IMMINENTLY DANGEROUS TO OTHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.1 is hereby rewritten to read as follows:

"§ 122-58.1. *Declaration of policy.*—It is the policy of this State that no person shall be committed to a mental health facility unless he is mentally ill or an inebriate and imminently dangerous to himself or others, or unless he is mentally retarded and, because of an accompanying behavior disorder, is imminently dangerous to others; that a commitment will be accomplished

under conditions that protect the dignity and constitutional rights of the person; and that committed persons will be discharged as soon as a less restrictive mode of treatment is appropriate."

Sec. 2. G.S. 122-58.2 is hereby amended by striking the phrase "inebriety" and "mental illness" on line 1 of subsection (2) and substituting the phrase "inebriate," "mental illness," and "mentally retarded" therefor.

Sec. 3. G.S. 122-58.3 is hereby amended by inserting the phrase ", or who is mentally retarded and, because of an accompanying behavior disorder, is imminently dangerous to others" between the words "others" and "may" on line 2 of subsection (a). Also insert the phrase "or is mentally retarded and, because of an accompanying behavior disorder, is imminently dangerous to others," between the words "others," and "he" on line 3 of subsection (b).

Sec. 4. G.S. 122-58.4 is hereby amended by inserting the phrase "or is not mentally retarded or lacks a behavior disorder which would cause the individual to be imminently dangerous to others," between the words "others," and "the" on line 4 of subsection (c). Also insert the phrase "or is mentally retarded, and because of an accompanying behavior disorder, is imminently dangerous to others," between the words "others," and "the" on line 7 of subsection (c).

Sec. 5. G.S. 122-58.5 is hereby amended by inserting the phrase "or is mentally retarded, and because of an accompanying behavior disorder, is imminently dangerous to others," between the words "others," and "the" on line 3 of that section.

Sec. 6. G.S. 122-58.6 is hereby amended by adding the phrase "or is mentally retarded, and because of an accompanying behavior disorder, is imminently dangerous to others," between the words "others," and "he" on line 5 of subsection (a).

Sec. 7. G.S. 122-58.7 is hereby amended by inserting the phrase "or mentally retarded" between the word "ill" and the comma which immediately follows "ill" on line 1 of subsection (c). Also insert the phrase ", or is mentally retarded, and because of an accompanying behavior disorder, is imminently dangerous to others" between the word "others" and the period which immediately follows "others" on line 3 of subsection (i).

Sec. 8. G.S. 122-58.8 is hereby amended by inserting the phrase ", or is not mentally retarded or lacks a behavior disorder which would cause the individual to be imminently dangerous to others" between the word "others" and the comma that immediately follows "others" on line 2 of subsection (a). Also insert the phrase "or is mentally retarded, and because of an accompanying behavior disorder, is imminently dangerous to others," between the words "others," and "it" on line 3 of subsection (b).

Sec. 9. G.S. 122-58.11 is hereby amended by inserting the phrase "or is mentally retarded, and because of an accompanying behavior disorder, is imminently dangerous to others," between the words "others," and "and" on line 7 of subsection (d).

Sec. 10. Article 5A of Chapter 122 of the General Statutes is hereby amended by adding a new section immediately following G.S. 122-58.18 to be numbered G.S. 122-58.19 and to read as follows:

"§ 122-58.19. *Place of commitment of persons who are mentally retarded, and because of an accompanying behavior disorder, are imminently dangerous to others.*—A person who is mentally retarded, and because of an accompanying

behavior disorder, is imminently dangerous to others shall be committed, when commitment is deemed proper by the appropriate official pursuant to the provisions of this Article, to a public or private mental health facility designated or licensed by the Division of Mental Health Services. Nothing in this Article shall be construed to permit the commitment of such individual to a regional mental retardation center or a private mental retardation facility."

Sec. 11. G.S. 122-58.12 is hereby amended by striking the phrase "mental illness or inebriety" on line 11 of subsection (a) and substituting the phrase "mental illness, inebriety, or mental retardation with an accompanying behavior disorder" therefor. Also strike out the phrase "mentally ill and inebriate" on line 5 of subsection (a) and substitute the phrase "mentally ill, inebriate, and mentally retarded with an accompanying behavior disorder" therefor.

Sec. 12. G.S. 122-58.2 is hereby amended by adding a new definition to that section which shall immediately follow the sentence "(3) 'Law enforcement officer' means sheriff, deputy sheriff, police officer, and State highway patrolman." and shall read as follows:

"(4) 'Behavior disorder' when used in this Article shall mean a pattern of maladaptive behavior that is recognizable by adolescence or earlier and is characterized by gross outbursts of rage or physical aggression against other persons or property."

Sec. 13. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 17th day of May, 1977.

H. B. 910 CHAPTER 401

AN ACT TO AUTHORIZE THE STATE TREASURER TO USE A FACSIMILE SIGNATURE TO SIGN CHECKS AND WARRANTS, AND TO AUTHORIZE A DEPUTY TREASURER TO SIGN INSTRUMENTS DURING THE ABSENCE OR DISABILITY OF THE TREASURER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-69 is amended by adding after the third sentence thereof the following:

"The Treasurer is authorized to use a facsimile signature machine or device in affixing his signature to warrants, checks or any other instrument he is required by law to sign."

Sec. 2. G.S. 147-75 is rewritten to read as follows:

"§ 147-75. *Deputy to act for Treasurer.*—The Treasurer may authorize a deputy to perform any duties pertaining to the office. The Treasurer may authorize a deputy to affix the Treasurer's signature to any check, warrant or any other instrument the Treasurer is required to sign by use of the facsimile signature machine or device during the Treasurer's absence or disability. The Treasurer shall be responsible for the conduct of his deputies."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1977.

S. B. 379 **CHAPTER 402**

AN ACT TO EXTEND TO COUNTIES THE POWER PRESENTLY GRANTED TO CITIES TO BORROW MONEY AND ISSUE GENERAL OBLIGATION BONDS TO PAY CAPITAL COSTS FOR PROVIDING PUBLIC TRANSPORTATION SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-48(b), as it appears in 1976 Replacement Volume 3D of the General Statutes, is amended by inserting a new subdivision to be numbered (23) and to read as follows:

"(23) Providing public transportation facilities, including without limitation equipment for public transportation, buses, surface and below-ground railways, ferries, and garage facilities."

Sec. 2. G.S. 159-48(d), as it appears in 1976 Replacement Volume 3D of the General Statutes, is amended by striking out subdivision (1).

Sec. 3. G.S. 159-49, as it appears in 1976 Replacement Volume 3D of the General Statutes, is amended in subpart (2) of paragraph one by striking out the language "(except purposes authorized by G.S. 159-48(b)(3), (11), (16), or (22) or by G.S. 159-48(d)(1) or (2))" and inserting in its place the language "(except purposes authorized by G.S. 159-48(b)(3), (11), (16), (22), or (23) or by G.S. 159-48(d)(2))"; and G.S. 159-49 is further amended in paragraph two by striking out the language "(except purposes authorized by G.S. 159-48(b)(3), (11), (16), or (22) or by G.S. 159-48(d)(1) or (2))" and inserting in its place the language "(except purposes authorized by G.S. 159-48(b)(3), (11), (16), (22), or (23) or by G.S. 159-48(d)(2))".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1977.

H. B. 911 **CHAPTER 403**

AN ACT TO AMEND THE LOCAL GOVERNMENT FINANCE ACT TO PROVIDE THAT BONDS OR NOTES ISSUED THEREUNDER ARE SECURITIES ELIGIBLE FOR INVESTMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 159 of the General Statutes of North Carolina is amended by adding a new section to Article 7 thereof, such section to read as follows:

"§ 159-140. *Bonds or notes eligible for investment.*—Subject to the provisions of G.S. 159-30, bonds or notes issued under the provisions of this Chapter are hereby made securities in which all public officers and public bodies of the State and its political subdivisions and agencies and all insurance companies, trust companies, investment companies, banks, savings banks, building and loan associations, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds or notes are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political

subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of the State is now or may hereafter be authorized by law."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1977.

H. B. 912 CHAPTER 404

AN ACT TO AMEND G.S. 159-161 TO EXTEND THE TIME WITHIN WHICH GENERAL OBLIGATION BOND ANTICIPATION NOTES SHALL BE PAYABLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-161 is hereby amended by striking out the words "five years" in the sixth line thereof and inserting in lieu thereof "seven years".

Sec. 2. The provisions of this act shall apply to general obligation bond anticipation notes authorized by bond orders in effect on the date of this act or which shall take effect hereafter.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1977.

H. B. 913 CHAPTER 405

AN ACT TO AMEND G.S. 142-1 TO PERMIT BONDS OR CERTIFICATES OF DEBT OF THE STATE TO BE PAID AT BANKS OR TRUST COMPANIES EITHER WITHIN OR WITHOUT THE STATE AND TO AUTHORIZE PAYMENT OF FEES FOR SERVICES RENDERED BY SUCH BANKS OR TRUST COMPANIES.

The General Assembly of North Carolina enacts:

Sec. 1. G.S. 142-1 is hereby rewritten to read as follows:

"All bonds or certificates of debt of the State shall be signed by the Governor, and countersigned by the State Treasurer, and sealed with the Great Seal of the State, and shall be made payable to bearer unless registered as hereinafter provided. The principal shall be made payable by the State at a day named in the bonds or certificates. Interest coupons shall be attached to the bonds or certificates unless they be bonds or certificates registered as to both principal and interest, and the bonds, certificates and coupons shall be made payable at such banks or trust companies within or without the State as shall be designated by the State Treasurer, or at the office of the State Treasurer in Raleigh. Any bank or trust company serving as a paying agent may be paid such reasonable fees and charges for such services as shall be agreed upon by and between such bank or trust company and the State Treasurer. No original bond or certificate of debt of the State shall be sold for a sum less than the par value thereof, nor shall any such bond or certificate, issued in lieu of a transferred bond or certificate, be payable elsewhere than may be the original, except by the consent of the holder it may be made payable at the State Treasury."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1977.

H. B. 5

CHAPTER 406

AN ACT TO ESTABLISH PROCEDURES FOR SENTENCING IN CAPITAL CASES AND TO FIX THE PUNISHMENT FOR MURDER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-17, as the same appears in the 1975 Cumulative Supplement to the 1969 Replacement Volume 1B of the General Statutes, is hereby amended and rewritten to read as follows:

"§ 14-17. *Murder in the first and second degree defined; punishment.*—A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon, shall be deemed to be murder in the first degree, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder shall be deemed murder in the second degree, and any person who commits such murder shall be punished by imprisonment for a term of not less than two years nor more than life imprisonment in the State's prison."

Sec. 2. Chapter 15A of the General Statutes is hereby amended by inserting at the end thereof a new Article 100 entitled "Capital Punishment" to read as follows:

"ARTICLE 100.

"Capital Punishment.

"§ 15A-2000. *Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.*—(a) Separate proceedings on issue of penalty.

(1) Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment. A capital felony is one which may be punishable by death.

(2) The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. If prior to the time that the trial jury begins its deliberations on the issue of penalty, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which he was selected. If the trial jury is unable to reconvene for a hearing on the issue of penalty after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue of the punishment. If the defendant pleads guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose. A jury selected for the purpose of determining punishment in a capital case shall be selected in the same manner as juries are selected for the trial of capital cases.

(3) In the proceeding there shall not be any requirement to resubmit evidence presented during the guilt determination phase of the case,

unless a new jury is impaneled, but all such evidence is competent for the jury's consideration in passing on punishment. Evidence may be presented as to any matter that the court deems relevant to sentence, and may include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (e) and (f). Any evidence which the court deems to have probative value may be received.

(4) The State and the defendant or his counsel shall be permitted to present argument for or against sentence of death. The defendant or defendant's counsel shall have the right to the last argument.

(b) Sentence recommendation by the jury. Instructions determined by the trial judge to be warranted by the evidence shall be given by the court in its charge to the jury prior to its deliberation in determining sentence. In all cases in which the death penalty may be authorized, the judge shall include in his instructions to the jury that it must consider any aggravating circumstance or circumstances or mitigating circumstance or circumstances from the lists provided in subsections (e) and (f) which may be supported by the evidence, and shall furnish to the jury a written list of issues relating to such aggravating or mitigating circumstance or circumstances.

After hearing the evidence, argument of counsel, and instructions of the court, the jury shall deliberate and render a sentence recommendation to the court, based upon the following matters:

(1) whether any sufficient aggravating circumstance or circumstances as enumerated in subsection (e) exist;

(2) whether any sufficient mitigating circumstance or circumstances as enumerated in subsection (f), which outweigh the aggravating circumstance or circumstances found, exist; and

(3) based on these considerations, whether the defendant should be sentenced to death or to imprisonment in the State's prison for life.

The sentence recommendation must be agreed upon by a unanimous vote of the 12 jurors. Upon delivery of the sentence recommendation by the foreman of the jury, the jury shall be individually polled to establish whether each juror concurs and agrees to the sentence recommendation returned.

If the jury cannot, within a reasonable time, unanimously agree to its sentence recommendation, the judge shall impose a sentence of life imprisonment; provided, however, that the judge shall in no instance impose the death penalty when the jury cannot agree unanimously to its sentence recommendation.

(c) Findings in support of sentence of death. When the jury recommends a sentence of death, the foreman of the jury shall sign a writing on behalf of the jury which writing shall show:

(1) The statutory aggravating circumstance or circumstances which the jury finds beyond a reasonable doubt; and

(2) That the statutory aggravating circumstance or circumstances found by the jury are sufficiently substantial to call for the imposition of the death penalty; and,

(3) That the mitigating circumstance or circumstances are insufficient to outweigh the aggravating circumstance or circumstances found.

(d) Review of judgment and sentence.

(1) The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of North Carolina pursuant to

procedures established by the Rules of Appellate Procedure. In its review, the Supreme Court shall consider the punishment imposed as well as any errors assigned on appeal.

(2) The sentence of death shall be overturned and a sentence of life imprisonment imposed in lieu thereof by the Supreme Court upon a finding that the record does not support the jury's findings of any aggravating circumstance or circumstances upon which the sentencing court based its sentence of death, or upon a finding that the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, or upon a finding that the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. The Supreme Court may suspend consideration of death penalty cases until such time as the court determines it is prepared to make the comparisons required under the provisions of this section.

(3) If the sentence of death and the judgment of the trial court are reversed on appeal for error in the post-verdict sentencing proceeding, the Supreme Court shall order that a new sentencing hearing be conducted in conformity with the procedures of this Article.

(e) Aggravating circumstances. Aggravating circumstances which may be considered shall be limited to the following:

(1) The capital felony was committed by a person lawfully incarcerated.

(2) The defendant had been previously convicted of another capital felony.

(3) The defendant had been previously convicted of a felony involving the use or threat of violence to the person.

(4) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(5) The capital felony was committed while the defendant was engaged, or was an aider or abettor, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any robbery, rape, arson, burglary, kidnapping, or aircraft piracy or the unlawful throwing, placing, or discharging of a destructive device or bomb.

(6) The capital felony was committed for pecuniary gain.

(7) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(8) The capital felony was committed against a law enforcement officer, employee of the Department of Correction, jailer, fireman, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, or witness or former witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duty.

(9) The capital felony was especially heinous, atrocious, or cruel.

(10) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.

(f) Mitigating circumstances. Mitigating circumstances which may be considered shall include, but not be limited to, the following:

(1) The defendant has no significant history of prior criminal activity.

(2) The capital felony was committed while the defendant was under the influence of mental or emotional disturbance.

(3) The victim was a voluntary participant in the defendant's homicidal conduct or consented to the homicidal act.

(4) The defendant was an accomplice in or accessory to the capital felony committed by another person and his participation was relatively minor.

(5) The defendant acted under duress or under the domination of another person.

(6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired.

(7) The age of the defendant at the time of the crime.

(8) The defendant aided in the apprehension of another capital felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.

(9) Any other circumstance arising from the evidence which the jury deems to have mitigating value.

"§ 15A-2001. *Capital offenses; plea of guilty.*—Any person who has been indicted for an offense punishable by death may enter a plea of guilty at any time after his indictment, and the judge of the superior court having jurisdiction may sentence such person to life imprisonment or to death pursuant to the procedures of G.S. 15A-2000. Before sentencing the defendant, the presiding judge shall impanel a jury for the limited purpose of hearing evidence and determining a sentence recommendation as to the appropriate sentence pursuant to G.S. 15A-2000. The jury's sentence recommendation in cases where the defendant pleads guilty shall be determined under the same procedure of G.S. 15A-2000 applicable to defendants who have been tried and found guilty by a jury.

"§ 15A-2002. *Capital offenses; jury verdict and sentence.*—If the recommendation of the jury is that the defendant be sentenced to death, the judge shall impose a sentence of death in accordance with the provisions of Chapter 15, Article 19 of the General Statutes. If the recommendation of the jury is that the defendant be imprisoned for life in the State's prison, the judge shall impose a sentence of imprisonment for life in the State's prison.

"§ 15A-2003. *Disability of trial judge.*—In the event that the trial judge shall become disabled or unable to conduct the sentencing proceeding provided in this Article, the Chief Justice shall designate a judge to conduct such proceeding."

Sec. 3. G.S. 9-18 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended by rewriting the first sentence to read as follows:

"Whenever the presiding judge deems it appropriate, one or more alternate jurors may be selected in the same manner as the regular trial panel of jurors in the case, but after the regular jury has been duly impaneled; provided, however, that in all criminal actions in which one or more defendants is to be tried for a capital offense, or enter a plea of guilty to a capital offense, the presiding judge shall provide for the selection of at least two alternate jurors, or more as he deems appropriate."

Sec. 4. G.S. 9-18 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby further amended by rewriting the sentence which begins with the word "An" on line 10 thereof to read as follows:

"An alternate juror shall receive the same compensation as other jurors and, except as hereinafter provided, shall be discharged upon the final submission of the case to the jury; provided, however, that no alternate juror in a capital case shall be discharged until the trial jury begins its deliberations on the issue of penalty."

Sec. 5. G.S. 9-18, as the same appears in the 1969 Replacement Volume 1B of the General Statutes, is hereby further amended by adding a new paragraph thereto to read as follows:

"In capital cases the alternate jurors shall be retained during the deliberations of the jury on the issue of guilt or innocence under such restrictions, regulations and instructions as the presiding judge shall direct. In case of sequestration of a jury during deliberations in a capital case, alternates shall be sequestered in the same manner as is the trial jury, but such alternates shall also be sequestered from the trial jury. In no event in the trial of any issue in a criminal case shall more than 12 jurors participate in the jury's deliberations."

Sec. 6. In the event that it is determined by the Supreme Court of North Carolina or by the Supreme Court of the United States that a sentence of death may not be constitutionally imposed for a capital offense for which the death penalty is provided by this act, the punishment for that offense shall be imprisonment in the State's prison for life.

Sec. 7. If any provisions of this act or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. The provisions of this act shall apply to murders committed on or after the effective date of this act.

Sec. 9. This act shall become effective on June 1, 1977.

In the General Assembly read three times and ratified, this the 19th day of May, 1977.

H. B. 431 CHAPTER 407

AN ACT TO AUTHORIZE COUNTIES AND CITIES TO REGULATE THE POSSESSION OF DANGEROUS ANIMALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-131 is hereby rewritten to read as follows:

"§ 153A-131. *Possession or harboring of dangerous animals.*—A county may by ordinance regulate, restrict, or prohibit the possession or harboring of animals which are dangerous to persons or property. No such ordinance shall have the effect of permitting any activity or condition with respect to a wild animal which is prohibited or more severely restricted by regulations of the Wildlife Resources Commission."

Sec. 2. G.S. 160A-187 is hereby rewritten to read as follows:

"§ 160A-187. *Possession or harboring of dangerous animals.*—A city may by ordinance regulate, restrict, or prohibit the possession or harboring within the city of animals which are dangerous to persons or property. No such ordinance shall have the effect of permitting any activity or condition with respect to a

wild animal which is prohibited or more severely restricted by regulations of the Wildlife Resources Commission."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1977.

H. B. 616 CHAPTER 408

AN ACT TO MAKE CERTAIN TECHNICAL CHANGES IN CHAPTER 163 OF THE GENERAL STATUTES RELATING TO ELECTIONS TO CONFORM WITH PRIOR CHANGES IN THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-97.1 is amended by rewriting the last sentence thereof to read as follows:

"All voters affiliated with such expired political party shall be changed to 'unaffiliated' designation by the State board's order and all such registrants shall be entitled to declare a political party affiliation as provided in G.S. 163-74(b)."

Sec. 2. G.S. 163-106(b) is amended by deleting the second and third paragraphs thereof, and inserting in lieu thereof the following:

"A person registered as 'unaffiliated' shall be ineligible to file as a candidate in a party primary election."

Sec. 3. G.S. 163-122 is amended as follows: delete the word "independent" in the caption and insert the word "unaffiliated"; delete in the first sentence, line 3, the words "independent or nonpartisan" and insert in lieu thereof the word "unaffiliated"; delete in subdivision (2) the words "independent or nonpartisan" and insert in lieu thereof the word "unaffiliated"; delete in the last paragraph the word "independent" and insert the word "unaffiliated".

Sec. 4. G.S. 163-137(a)(2) is amended by deleting the word "independent" and inserting the word "unaffiliated".

Sec. 5. G.S. 163-140(b)(2), (3), (4) and (5) is amended by deleting the word "independent" wherever it appears therein, and inserting in lieu thereof the word "unaffiliated".

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1977.

H. B. 732 CHAPTER 409

AN ACT TO AMEND G.S. 97-38 OF THE WORKMEN'S COMPENSATION ACT CONCERNING PROXIMATE CAUSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-38 is hereby amended by striking out "approximately" as the same appears in line one of such section, and by substituting in lieu thereof "proximately."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1977.

H. B. 977 **CHAPTER 410**

AN ACT TO AMEND G.S. 119-49 RELATING TO LIQUEFIED PETROLEUM GASES.

Whereas, the General Assembly finds that the safety in storage and handling of liquefied petroleum gases will be enhanced by the use of the most current National Fire Protection Handbook as the standard for liquefied petroleum facilities in North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 119-49, as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended on line 4 by deleting the year "1974" and inserting in lieu thereof the year "1976" so that the first sentence of G.S. 119-49 reads:

"The standards as set forth in Pamphlet No. 58 of the National Fire Protection Association entitled 'The Storage and Handling of Liquefied Petroleum Gases' dated 1976, and Pamphlet No. 54 of the National Fire Protection Association entitled 'American National Standard, National Fuel Gas Code' dated 1974, and the rules and regulations promulgated by the North Carolina State Board of Agriculture are hereby adopted, as is set forth herein, as safety standards for the design, construction, location, installation and operation of equipment and facilities used in handling, storing, and distribution of liquefied petroleum gas, subject, always, to the power and authority of the North Carolina State Board of Agriculture to adopt, reject, or to add to any provisions set forth in said pamphlets as above entitled after a public hearing held upon 15 days' notice."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1977.

H. B. 587 **CHAPTER 411**

AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO PROVIDE LEGAL SERVICES TO INDIGENT PERSONS IN CIVIL MATTERS.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Cumberland County may provide legal services to indigent citizens of the county in civil matters and may fund such services from available non-tax revenues.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of May, 1977.

H. B. 615 CHAPTER 412

AN ACT TO PROHIBIT THE HUNTING OF BEAR IN HYDE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to hunt, take or kill or attempt to hunt, take or kill at any time a bear in Hyde County.

Sec. 2. Violation of this act shall be a misdemeanor, punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00) or imprisonment for not more than 30 days, or both fine and imprisonment.

Sec. 3. The provisions of this act shall be enforced by wildlife protectors of the Wildlife Resources Commission.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1977.

H. B. 1030 CHAPTER 413

AN ACT TO AUTHORIZE THE BOARD OF COMMISSIONERS OF GRANVILLE COUNTY TO PAY COSTS INCURRED IN RENOVATING THE OLD NURSING HOME OF GRANVILLE COUNTY AND TO VALIDATE PAYMENT ALREADY MADE.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Granville County is hereby authorized to pay to Carl C. Lawrence, Incorporated, the sum of forty-five thousand two hundred six dollars and forty-nine cents ($45,206.49) which represents the unpaid balance of charges by Carl C. Lawrence, Incorporated, for material, supplies, and labor expended in renovating the old nursing home of Granville Hospital.

Sec. 2. The payment of five thousand dollars ($5,000) heretofore made by the Board of Commissioners of Granville County to Carl C. Lawrence, Incorporated, in partial payment of the costs of renovating the old nursing home of Granville Hospital is hereby confirmed and validated.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1977.

S. B. 402 CHAPTER 414

AN ACT TO AMEND ARTICLE 5A OF CHAPTER 122 OF THE GENERAL STATUTES TO PROVIDE ADVANCE NOTICE OF HEARINGS AND REHEARINGS TO THE PETITIONER IN INVOLUNTARY COMMITMENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 5A of Chapter 122 of the General Statutes is hereby amended by adding a new section immediately following G.S. 122-58.18 to be numbered G.S. 122-58.18A and to read as follows:

"§ 122-58.18A. *Advance notification to petitioner of involuntary commitment hearings and rehearings; waiver.*—(a) The clerk of court shall notify the petitioner at least 48 hours in advance of all hearings and rehearings in which

the district court might determine to commit the respondent, extend the respondent's commitment period, or discharge the respondent from the treatment facility. Such notice shall be in any of the following ways:

(1) by service of such notice on the petitioner by the sheriff of the county in which the petitioner resides; or

(2) by depositing notice of such hearing in the United States mail, postage prepaid and duly certified, in an envelope addressed to the petitioner at his last known address, at least three days prior to said hearing or rehearing. The certified receipt showing the date of deposit of such notice shall be admissible as evidence of notice of such hearing or rehearing.

(b) The petitioner may file a written waiver of his right to notice under this section with the clerk of court."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of May, 1977.

S. B. 498

CHAPTER 415

AN ACT TO AMEND CHAPTER 757 OF THE SESSION LAWS OF 1953 RELATING TO THE CIVIL SERVICE COMMISSION OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Whenever any member of the classified service of the City of Asheville is discharged, suspended, reduced in rank, transferred against his or her will, or is denied any promotion or raise in pay which he or she should be entitled to, that member shall be entitled to a hearing before the Civil Service Board of the City of Asheville to determine whether or not the action complained of is justified.

Sec. 2. Any member of the classified service of the City of Asheville who desires such hearing shall file his request for hearing with the city clerk within 10 days after learning of the act or omission of which he or she complains. Upon receipt of such notice, the city clerk shall set the matter for hearing before the civil service board at a date not less than five nor more than 15 days from the clerk's receipt of such notice.

Sec. 3. Any member of the classified service of the City of Asheville who requests a hearing pursuant to this act shall be entitled to be represented by counsel of his or her choice at all stages of the proceeding. It shall be the duty of the city attorney to represent the city in cases where the complaining member of the classified service is represented by counsel.

Sec. 4. At such hearing, the burden of proving the justification of the act or omission complained of shall be upon the City of Asheville and the member requesting the hearing shall be entitled to inspect and copy any records upon which the city plans to rely at such hearing, provided that such records are requested in writing by the member or his attorney prior to the day set for the hearing.

Sec. 5. The civil service board shall render its decision in writing within five days after the conclusion of the hearing. If the board determines that the act or omission complained of is not justified, the board shall order to rescind whatever action the board has found to be unjustified and may order the city to

take such steps as are necessary for a just conclusion of the matter before the board. Upon reaching its decision, the board shall immediately inform the city clerk and the member requesting the hearing of the board's decision and shall do so in writing.

Sec. 6. Within 10 days of the receipt of notice of the decision of the board, either party may appeal to the Superior Court Division of the General Court of Justice for Buncombe County for a trial de novo. The appeal shall be effected by filing with the Clerk of the Superior Court of Buncombe County a petition for trial in superior court, setting out the facts upon which the petitioner relies for relief. If the petitioner desires a trial by jury, the petition shall so state. Upon the filing of the petition, the clerk of the superior court shall issue a civil summons as in regular civil action, and the sheriff of Buncombe County shall serve the summons and petition on all parties who did not join in the petition for trial.

It shall be sufficient service upon the City of Asheville for the sheriff to serve the petition and summons upon the clerk of the City of Asheville. Thereafter, the matter shall proceed to trial as any other civil action.

Sec. 7. If any section, subsection, subdivision, sentence, clause or phrase of this act shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Sec. 8. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1977.

S. B. 609 CHAPTER 416

AN ACT TO ABOLISH THE CIVIL SERVICE COMMISSION IN THE CITY OF HENDERSONVILLE, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the 1959 Session Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of May, 1977.

H. B. 549 CHAPTER 417

AN ACT TO AMEND G.S. 18A-16 TO PROVIDE FOR THE SELECTION OF THE MEMBERS OF MARTIN COUNTY ABC BOARD BY THE BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-16 is hereby amended:

(a) by deleting from the first paragraph of subsection (a) thereof, at lines 6 through 9, the following:

"in a joint meeting of the board of county commissioners, the county board of health, and the county board of education. Each person voting at this joint meeting shall have only one vote, notwithstanding the fact that there may be instances in which some persons are members of another board.",

and by substituting in lieu thereof the words "by the Martin County Board of County Commissioners";

(b) by deleting from the second paragraph of subsection (a) thereof, at lines 11 and 12, the words "the appointing boards" and by substituting in lieu thereof the words "the Martin County Board of County Commissioners";

(c) by deleting therefrom the third paragraph of subsection (a), lines 18 through 27, and by substituting in lieu thereof the following:

"Any member of the county board hereinabove referred to in this section may be removed at any time by the board of county commissioners whenever such board finds, by a majority vote of its membership, that a member or members are unfit to serve on the county alcoholic beverage control board. If any member of the county board is removed hereunder, his successor shall be selected to serve out the time for which such member was originally selected.";

(d) by deleting from the fourth paragraph of subsection (a), at lines 33 through 35, the following:

"at a joint meeting of the board of county commissioners, the county board of education, which joint meeting shall be held within 10 days after such resignation or death.",

and by substituting in lieu thereof the following:

"by the Martin County Board of County Commissioners at its next regularly scheduled meeting following the death or resignation of the chairman or any other member of the county board of alcoholic control.";

(e) by deleting from subsection (c) thereof, at line 2, the words "joint meeting of the several boards that appoint them" and by substituting in lieu thereof the words "Martin County Board of County Commissioners";

(f) by deleting from subsection (d) thereof, at lines 15 and 16, the words "The three joint boards referred to above", and by substituting in lieu thereof the words "The Martin County Board of County Commissioners".

Sec. 2. This act shall apply only to Martin County.

Sec. 2½. This act shall also apply to Dare County. Whenever reference is made herein to the Martin County Board of Commissioners, it shall be deemed to refer to the Dare County Board of Commissioners with respect to the Dare County Board of Alcoholic Beverage Control.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

H. B. 661 CHAPTER 418

AN ACT TO AUTHORIZE AND EMPOWER THE TOWN COUNCIL OF THE TOWN OF SOUTHERN PINES TO CONSTRUCT AND INSTALL, OR CONTRACT FOR THE CONSTRUCTION AND INSTALLATION, OF LOCAL IMPROVEMENTS ON ITS PUBLIC STREETS AND ALLEYS, AND TO SPECIALLY ASSESS SUCH PORTION OF THE COSTS THEREOF, EXCLUSIVE OF THAT INCURRED AT STREET INTERSECTIONS, AS IT MAY DETERMINE AGAINST THE PROPERTY ABUTTING UPON SUCH PUBLIC STREET OR ALLEY SO IMPROVED; AND PRESCRIBING THE PROCEDURE THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. The Town Council of the Town of Southern Pines is hereby authorized and empowered without the necessity of having a petition filed by the owners of abutting property, to construct and install or contract for the construction and installation of paving, repaving, macadamizing, and remacadamizing of any of the public streets and alleys, and the construction, reconstruction, and altering of curbs, gutters and drains in any of the public streets and alleys and the construction and installation of sidewalks, sanitary sewers, water mains, and sanitary sewer and water laterals in any of such public street and alley rights-of-way, and specially assess the entire cost of such construction and installation, except such part thereof as is incurred at the street intersections against the property abutting upon the street or alley or streets or alleys which are so improved. The said town council may specially assess less than the total cost against the said abutting property if it should determine by resolution that it would be inequitable to specially assess the entire cost thereof; and in determining whether it would be inequitable, the town council is authorized to take into consideration the location, width, use, and general importance of such street or alley as it relates to the public welfare, safety, health and convenience.

Sec. 2. When it is proposed to make without petition any improvement or improvements described in Section 1 hereof, the town council shall adopt a resolution which shall contain substantially the following:

(a) that this proceeding is taken under and will be governed by the provisions of this act (stating the number of the Chapter and the session at which passed by the General Assembly);

(b) a statement of the reasons proposed for the making thereof;

(c) a brief description of the proposed improvement or improvements;

(d) the proportion of the cost of the improvement or improvements to be specially assessed and the terms of payment;

(e) a notice of the time and place, when and where a public hearing will be held on the proposed improvement or improvements; (The time fixed for such public hearing shall be such as to allow notice being given thereof not less than 10 days prior thereto.);

(f) a notice that all objections to the legality of the making of the proposed improvement or improvements shall be made in writing signed in person or by attorney, and filed with the clerk of the Town of Southern Pines at or before the time of such hearing, and that any such objections not so made will be waived.

The resolution shall be published one time in a newspaper published in the Town of Southern Pines, the date of publication to be not less than 10 days prior to the date fixed for the hearing.

Sec. 3. In the event the said town council elects to proceed under this act to make local improvements and specially assess the cost thereof against the abutting property without the filing of a petition therefor, as is authorized by this act, and thus adopt the resolution provided for in Section 2 of this act, then, and in such event, the procedure applicable to such proceedings from that point to the final completion of the improvement, the final confirmation of the assessment role and the remedies available shall be as particularly set forth and provided in Private Laws of 1927, Sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 29 of Chapter 224, as amended by Chapter 197,

Private Laws of 1929, which provisions of said laws are hereby incorporated in this act as fully and to the same extent and to all intents and purposes as if set out word for word in this act. In the event said statutes shall be repealed or amended, such repeal or amendment shall not affect this application to the Town of Southern Pines.

Sec. 4. When electing to make local improvements and specially assess the cost thereof upon abutting property, without petition therefor, as authorized by this act, the town council shall specially state in the resolution adopted as provided in Section 2 hereof that it is proceeding under and by virtue of the provisions of this act.

Sec. 5. All laws in conflict herewith are hereby repealed.

Sec. 6. This act shall apply only to the Town of Southern Pines.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

H. B. 731 CHAPTER 419

AN ACT TO AMEND G.S. 97-2(15) OF THE WORKMEN'S COMPENSATION ACT CONCERNING THE DEFINITION OF WIDOWER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(15) is hereby amended by striking out "who at the time of her death lived with her and was dependent for support upon her" as the same appears in lines two and three of such subsection, and by substituting in lieu thereof "living with or dependent for support upon her at the time of her death or living apart for justifiable cause or by reason of her desertion at such time".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

H. B. 762 CHAPTER 420

AN ACT TO AUTHORIZE A LEVY OF NOT MORE THAN ONE DOLLAR PER YEAR UPON VEHICLES RESIDENT IN CASWELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 153A of the General Statutes is hereby amended by adding a new section thereto to read as follows:

"§ 153A-155. *Motor vehicle taxes.*—A county may impose an annual license tax on motor vehicles as permitted by G.S. 20-97."

Sec. 2. G.S. 20-97(a) as the same appears in the 1975 Replacement Volume 1C is hereby amended on line six after the word "that" by inserting the word "counties,".

Sec. 3. This act shall apply to Caswell County only.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

H. B. 1047 CHAPTER 421

AN ACT TO INCREASE THE IDENTIFICATION REQUIREMENTS OF PRACTITIONERS LICENSED BY LAW TO ADMINISTER DRUGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-134.1(4)a., as the same appears in the 1975 Cumulative Supplement to Volume 3A, is hereby amended by striking the word "or" at the end of line 2 and adding the following: "provided that the written prescription must bear the printed or stamped name, address, telephone number and DEA number of the prescriber in addition to his legal signature, or".

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

H. B. 1105 CHAPTER 422

AN ACT TO CONFIRM CERTAIN PORTIONS OF THE CORPORATE LIMITS AND TO RATIFY ACTIONS OF THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN.

The General Assembly of North Carolina enacts:

Section 1. The actions of the Board of Aldermen of the Town of Black Mountain taken to annex the following described areas are hereby ratified, validated, and confirmed, and the corporate limits of the Town of Black Mountain are hereby extended to include such areas:

(a)(1) Lying and being in Black Mountain Township and more particularly described as follows:

"BEGINNING at an iron pin which said iron pin is located North 63 degrees West 341.49 feet from a double Black Gum at the Northwestern corner of the Homer Chapel Church lot and runs thence North 63 degrees 00' 00" West 153.51 feet to an iron pin; Thence South 38 degrees 05' 00" West 113.39 feet to an iron pin; Thence South 58 degrees 01' 43" East 165 feet to an iron pin in the North margin of Chapel Road; Thence North 31 degrees 58' 17" East 126.06 feet to the point of the BEGINNING."

(2) A tract fifty (50) feet in width and extending along the entire eastern boundary of the tract described in (a)(1) above.

(b) Lying and being in Black Mountain Township and more particularly described as follows:

"BEGINNING at an iron pin in the Northwesterly margin of Chapel Road at the Sobol Southwest corner N 38 degrees 05' East 113.70 feet to a pin; thence N 46 degrees 34' West 70.17 feet to a pin; thence N 55 degrees 06' West 69.97 feet to a pin; thence S 36 degrees 25' West 97.53 feet to a pin in the Northwest margin of Chapel Road; thence S 44 degrees 13' E 138.75 feet along the Northwest margin of Chapel Road to the point of the BEGINNING."

(c) Lot 3 of Block H of the plat recorded in the office of the Register of Deeds of Buncombe County in Plat Book 41 at Page 7, and being the same property conveyed by deed recorded in the office of the Register of Deeds of Buncombe County in Deed Book 1102, Page 61.

(d) Lot 2 of Block H of the plat recorded in the office of the Register of Deeds of Buncombe County in Plat Book 41 at Page 7, and being the same

property conveyed by deed recorded in the office of the Register of Deeds of Buncombe County in Deed Book 1034 at Page 301.

(e) Lot 4 of Block H of the plat recorded in the office of the Register of Deeds of Buncombe County in Plat Book 41 at Page 7, and being the same property conveyed by deed recorded in the office of the Register of Deeds of Buncombe County in Deed Book 1065 at Page 177.

Sec. 2. (a) As of May 1, 1969, any and all official acts, actions, and levies of taxes or assessments by the Mayor and Board of Aldermen of the Town of Black Mountain with respect to or affecting the territory and properties described in Section 1 of this act are hereby ratified, validated and confirmed.

(b) As of May 1, 1969, any and all official votes, acts, and actions of any member of the Board of Aldermen of the Town of Black Mountain who has resided or who resides in any of the territory described in Section 1 of this act are hereby ratified, validated, and confirmed.

(c) The November 1975 election of Tom Sobol and Don Hoefling to the Town Board by the qualified voters of the Town of Black Mountain is hereby validated and said aldermen are properly and legally acting on behalf of the board.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

H. B. 1130 CHAPTER 423

AN ACT TO APPROPRIATE TITLE II ANTIRECESSION FUNDS PURSUANT TO EMERGENCY ORDER ISSUED BY THE GOVERNOR.

Whereas, the Congress of the United States enacted on July 22, 1976, the Public Works Employment Act of 1976; and

Whereas, the State of North Carolina shall receive approximately five million three hundred thousand dollars ($5,300,000) in funds from Title II of that act in the 1976-77 fiscal year; and

Whereas, the act requires that the Title II funds shall be appropriated within six months of the date of the first payment received on November 22, 1976; and

Whereas, the overcrowding of inmates in the North Carolina prison system is a serious and increasing problem; and

Whereas, improvement in security and partial relief of this overcrowding can be achieved through the temporary conversion of available buildings within the Department of Correction confines to house inmates; and

Whereas, further improvement of this overcrowding can be achieved by transfer of under-used facilities presently assigned to other departments and their conversion to housing units for prison inmates; and

Whereas, the Governor of the State of North Carolina has declared an emergency condition in compliance with the provisions of Chapter 143, Section 15 of the General Statutes of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. An emergency appropriation of five million three hundred thousand dollars ($5,300,000) is hereby made to the Department of Correction from the share of federal Title II antirecession revenue funds from the Public Works Employment Act of 1976 received by the State of North Carolina.

Sec. 2. This emergency appropriation of five million three hundred thousand dollars ($5,300,000) is authorized to be expended by the Department of Correction for its operation according to the following schedule:

Fiscal Year 1976-77	Fiscal Year 1977-78	Fiscal Year 1978-79
$190,000	$2,850,081	$2,259,919

Sec. 3. All funds herein appropriated will be spent in accordance with the Executive Budget Act.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after the day of its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

S. B. 347 CHAPTER 424

AN ACT TO AMEND G.S. 75A-15 WITH RESPECT TO SPECIAL BOATING AND WATER SAFETY REGULATIONS APPLICABLE TO LOCAL WATERS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of G.S. 75A-15 is hereby amended by adding at the end of said subsection two sentences to read as follows:

"The Wildlife Resources Commission is authorized and empowered to adopt regulations as provided by G.S. Chapter 150A, Administrative Procedure Act, prohibiting entry of vessels into public swimming areas and establishing speed zones at public boat launching ramps, marinas, or boat service areas and on other congested water areas where there are demonstrated water safety hazards. Enforcement of such special regulations shall be dependent upon placement and maintenance of regulatory markers in accordance with the Uniform State Waterway Marking System by such agency or agencies as may be designated by the Wildlife Resources Commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

S. B. 501 CHAPTER 425

AN ACT TO ENABLE THE DEPARTMENT OF ADMINISTRATION TO INITIATE SALES, LEASES, OR RENTALS OF STATE LANDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-27 is amended by rewriting its title to read as follows: "*The role of the Department of Administration in sales, leases, and rentals.*"

Sec. 2. G.S. 146-27 is further amended by deleting in its entirety the second sentence beginning with "In" in line 3, and by inserting in lieu thereof the following: "The Department of Administration may initiate proceedings for sales, leases, and rentals of land owned by the State or by any State agency."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

S. B. 562

CHAPTER 426

AN ACT TO AMEND CERTAIN SECTIONS OF THE NORTH CAROLINA MILK COMMISSION LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-266.6(8) is rewritten to read as follows:

"(8) 'Milk' means the lacteal secretion obtained by the milking of one or more cows and reconstituted milk products derived from the recombining of dry milk solids, evaporated or condensed milk with water, and which is pasteurized, standardized or otherwise processed with a view of selling it as fluid milk in its several forms, whether cultured or with added bacteria or other ingredients, regardless of grade or fat content, including whole milk, lowfat milk, cream, chocolate milk, plain buttermilk, cream buttermilk, skim milk, special or premium milk, flavored milk or drinks, concentrated milk, sterile milk, dietary modified milk, liquid milk shake mix, half and half, eggnog, other milk-cream mixtures and the milk portion of any imitation milk. Said term excludes the lacteal secretion of one or more dairy cows where the secretion is to be sold for any other purpose."

Sec. 2. G.S. 106-266.8(3) is rewritten to read as follows:

"(3) To supervise and regulate the transportation, processing, storage, distribution, delivery and sale of milk for consumption; provided that nothing in this Article shall be interpreted as giving the commission any power to limit the quantity of milk that any producer can produce nor the power to prohibit or restrict the admission of new producers. To classify milk on the basis of use or form; to adopt or approve base plans for allocating classes of milk and to provide for the pooling on a market-wide or statewide plan the total utilization of licensed distributors, or may assign base and/or milk in order to obtain the highest utilization possible for producers and/or associations of producers supplying milk to the market; and the commission may provide for an equalization payment in order that producer milk will not be paid for in a lower class through the recombining of water and milk constituents."

Sec. 3. G.S. 106-266.8(10)d. is rewritten to read as follows:

"d. In determining the reasonableness of prices to be paid or charged in any market, the commission shall be guided by the cost of production and distribution, including compliance with all sanitary regulations in force in such market or markets, necessary operating, processing, storage and delivery charges, the prices of other foods and other commodities, and the welfare of the general public. The commission may adopt a formula incorporating such of these economic factors as well as other pertinent economic factors relevant to the production of milk which will determine automatically the prices to be paid producers or associations of producers by distributors in any market or markets, and then provide for the periodic automatic readjustment of such prices according to the result obtained by the use of this formula. Public hearings shall be held for adoption, or amendment of the formula itself, but shall not be required for price adjustments which are made based upon use of the formula."

Sec. 4. G.S. 106-266.18 is rewritten to read as follows:

"§ 106-266.18. *Limitations upon power of commission.*—Nothing in this Article shall be interpreted as giving the commission any power to limit the quantity of milk that any producer can produce, nor the power to prohibit or

restrict the admission of new producers, nor the power to restrict the marketing area of any producer, except as provided in G.S. 106-266.8(3)."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

S. B. 583 CHAPTER 427

AN ACT TO RATIFY AND VALIDATE THE PROCEEDINGS FOR THE ESTABLISHMENT OF CHOWAN COUNTY DRAINAGE DISTRICT NUMBER THREE.

Whereas, Bear Swamp Drainage District Number Three also known as Chowan County Drainage District Number Three was established by a proceeding in the office of the Clerk of the Superior Court of Chowan County instituted in 1909 pursuant to Chapter 442 of the Public Laws of 1909; and

Whereas, that since the original construction of improvements in the Bear Swamp Watershed during the period of 1913-1914, there have been several renovations; and

Whereas, documents are missing from the court records to show the continuity of the court proceedings, the classification of benefits to the several tracts of lands and the tracts of land assessed, as well as the maps or other description of the boundaries of the drainage district and the several tracts of land located within said boundaries, the original waterways improved, the easements for the improvements as well as related documents; and

Whereas, the most recent renovation of the drainage system was in 1948; and there is presently a need for renovation and maintenance to the existing drainage system; and

Whereas, there was a hearing on the 16th day of September, 1976, before the Clerk of the Superior Court of Chowan County advertised as required by G.S. 156-73, at which, the board of viewers previously appointed by the Clerk of the Superior Court of Chowan County presented their report which was filed with said court on the 23rd day of August, 1976, setting forth a plan for and the estimated cost of proposed renovations and improvements to the existing drainage system; and

Whereas, the said Clerk of Superior Court of Chowan County approved the said report of the board of viewers, pursuant to G.S. 156-74, on the 23rd day of September, 1976, and no appeal from said order of approval has been made; and

Whereas, to obtain necessary financial assistance to proceed with construction of the plans as approved by the court, a validation of the creation of the drainage district and the ratification of the acts of the commissioners of the drainage district, the Board of Viewers and the order of the clerk of the superior court as set forth by the records of the office of the Clerk of the Superior Court of Chowan County, relating to said drainage district, is necessary; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chowan County Drainage District Number Three also referred to as Bear Swamp Drainage District, established by judgment of the Superior Court of Chowan County in that certain special proceeding, bearing file number 68-SP-25 entitled in re: "Bear Swamp Drainage District" which is

also identified on some of the documents filed in said proceeding as "Chowan County Drainage District Number Three", which proceeding was instituted in said court by petition recorded in Drainage Record Volume One at page 1 to which is attached a bond dated the "1st day of June, 1909", under the provisions of Chapter 442 of the Public Laws of 1909 and amendments thereto, is hereby ratified, confirmed and validated in every detail and is declared a political subdivision of the Government of the State of North Carolina as authorized by said Chapter, under the name of Chowan County Drainage District Number Three, also referred to as Bear Swamp Drainage District, they being one and the same.

Sec. 2. The elections and appointments by the superior court of said county of members composing the Board of Drainage Commissioners and the Board of Viewers for said district are hereby ratified, confirmed and validated.

Sec. 3. The Final Report of the Board of Viewers including all schedules attached thereto, filed on the 23rd day of August, 1976, at 5:05 p.m. as approved by "Order of Confirmation on the Final Report of the Board of Viewers", entered by Lena M. Leary, Clerk of the Superior Court of Chowan County, on the 23rd day of September, 1976, and filed on the 23rd day of September, 1976, at 3:00 p.m. in the office of the Clerk of Superior Court of Chowan County is hereby ratified, confirmed and validated.

Sec. 4. (1) The map showing the boundaries of said Chowan County Drainage District Number Three, (Bear Swamp Drainage District), (2) the description of the boundaries and (3) the classification of lands as to benefits received, as set forth in the motion filed in said proceeding which is entitled Bear Swamp District Number Three (Chowan County Drainage District Number Three), file number 68-SP-25 in the office of the Clerk of Superior Court of Chowan County, on the 23rd day of March, 1977, at 1:39 p.m. are hereby ratified, confirmed and validated as (1) the boundaries of said Chowan County Drainage District Number Three and (2) the classification of land within said boundaries as to benefits received and upon which assessments are to be made pursuant to Chapter 156 entitled "Drainage", Subchapter III, entitled "Drainage District", and amendments thereto.

Sec. 5. All acts of Chowan County Drainage District Number Three and its board of commissioners, entering into contracts and agreements with the Soil Conservation Service of the United States Department of Agriculture, and the development of plans for the maintenance, renovation and extension and otherwise to make improvements to the drainage system of Bear Swamp Watershed as shown by the said Final Report of the Board of Viewers as approved by the Clerk of Superior Court of Chowan County by said order entered the 23rd day of September, 1976, are hereby ratified, confirmed and validated as having been done in substantial compliance with Chapter 156 entitled "Drainage", Subchapter III, entitled "Drainage District", and amendments thereto.

Sec. 6. The Clerk of Superior Court of Chowan County and other judicial officials together with the Commissioners of the Chowan County Drainage District Number Three, are hereby authorized and empowered to have all of the authority, powers and duties as set forth in said Chapter 156, Subchapter III of the General Statutes of North Carolina and amendments thereto and are directed to proceed in substantial compliance therewith for the

accomplishment of the plans as set forth in said final report and the further development, operation and maintenance of said drainage district.

Sec. 7. All and every act and duty directed and required to be done to make valid and complete the (1) said Final Report of the Board of Viewers as confirmed by the Order of the Clerk of Superior Court of Chowan County on the 23rd day of September, 1976, and (2) the acquisition of rights-of-way or easements as necessary to accomplish the plans as set forth in said final report and (3) the authority to levy assessments upon the several tracts of land as shown in the said classification of benefits to land filed by the Clerk of Superior Court of Chowan County by order entered on the 23rd day of March, 1977, are hereby ratified, confirmed and validated and Chowan County Drainage District Number Three is declared an improvement district existing in accordance with and subject to the provisions of Chapter 156, Subchapter III of the General Statutes of North Carolina and amendments thereto.

Sec. 8. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 9. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1977.

H. B. 97 CHAPTER 428

AN ACT TO REQUIRE THAT A FEMALE APPLICANT FOR A MARRIAGE LICENSE RECEIVE A RUBELLA IMMUNITY TEST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 51-9, as it appears in the 1976 Replacement of Volume 2A of the General Statutes, is hereby amended by adding the following paragraph between the present second and third paragraphs:

"Furthermore, such certificate shall state that a rubella immunity test has been administered to the female applicant by a regularly licensed physician."

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 24th day of May, 1977.

H. B. 997 CHAPTER 429

AN ACT TO AMEND SECTION 10-8 OF THE GENERAL STATUTES TO INCREASE NOTARY FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10-8 is hereby amended by striking the amount of fifty cents (50¢) in subsection (1), line 2 thereof and substituting in lieu thereof the amount one dollar ($1.00).

Sec. 2. G.S. 10-8 is hereby amended by striking the amount fifty cents (50¢) in subsection (2) thereof and substituting in lieu thereof the amount one dollar $1.00.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1977.

S. B. 418 CHAPTER 430

AN ACT TO AMEND G.S. 84-4.1 CONCERNING THE PRACTICE OF OUT-OF-STATE ATTORNEYS BEFORE THE INDUSTRIAL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-4.1 is hereby amended by inserting after the word "Commission" and before the word "may" as the same appears in line 5 of such section the words "or the North Carolina Industrial Commission" and by inserting following the word "Commission" and before the word "for" as the same appears in line 7 of such section the words "or the North Carolina Industrial Commission".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1977.

S. B. 419 CHAPTER 431

AN ACT TO AMEND G.S. 97-85 OF THE WORKMEN'S COMPENSATION ACT CONCERNING REVIEW OF AWARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-85 is hereby amended by striking out "seven" as the same appears in line 2 of such section, and by substituting in lieu thereof "fifteen".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1977.

S. B. 703 CHAPTER 432

AN ACT TO AUTHORIZE THE TOWN OF MOUNT OLIVE TO EXERCISE THE POWER OF EMINENT DOMAIN PURSUANT TO ARTICLE 9, CHAPTER 136 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other procedure authorized by law, the Town of Mount Olive is hereby authorized to exercise the power of eminent domain, both within and outside the corporate limits, for any purpose for which the town is authorized to acquire property by eminent domain, to the same extent authorized to the North Carolina Board of Transportation, pursuant to the procedures of Chapter 136, Article 9 of the General Statutes.

Sec. 2. Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1977.

H. B. 813 CHAPTER 433

AN ACT TO PERMIT THE CITY OF CHARLOTTE AND THE INCORPORATED CITIES AND TOWNS IN THE COUNTIES OF BUNCOMBE, CUMBERLAND, DAVIDSON, JOHNSTON, MADISON, MCDOWELL, NEW HANOVER, PENDER, TRANSYLVANIA, AND YANCEY, TO INCREASE THEIR LICENSE TAX LEVY ON MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is rewritten in its entirety to read as follows:

"(a) All taxes levied under the provisions of this Article are intended as compensatory taxes for the use and privileges of the public highways of this State, and shall be paid by the commissioner to the State Treasurer, to be credited by him to the State Highway Fund; and no county or municipality shall levy any license or privilege tax upon the use of any motor vehicle licensed by the State of North Carolina, except that cities and towns, other than the City of Charlotte and all incorporated cities and towns in the counties of Buncombe, Cumberland, Davidson, Johnston, Madison, McDowell, New Hanover, Pender, Transylvania, and Yancey, may levy not more than one dollar ($1.00) per year upon any such vehicle resident therein, and the City of Charlotte and all incorporated cities and towns in the counties of Buncombe, Cumberland, Davidson, Johnston, Madison, McDowell, New Hanover, Pender, Transylvania, and Yancey, may levy not more than five dollars ($5.00) per year upon any such vehicle resident therein: Provided, however, that cities and towns may levy, in addition to the amounts hereinabove provided for, a sum not to exceed fifteen dollars ($15.00) per year upon each vehicle operated in such city or town as a taxicab."

Sec. 2. This act applies only to the City of Charlotte and to the incorporated cities and towns in the counties of Buncombe, Cumberland, Davidson, Johnston, Madison, McDowell, New Hanover, Pender, Transylvania, and Yancey.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1977.

H. B. 357 CHAPTER 434

AN ACT TO ESTABLISH THE HUNTING SEASON FOR DEER IN STOKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provisions of law, the open season for the taking of deer, with or without the use of dogs, in Stokes County shall be the same as that prescribed by regulations of the Wildlife Resources Commission.

Sec. 2. Penalties for any violation of this act shall be the same as those provided for violation of prohibited acts under Chapter 113 of the General Statutes of North Carolina.

Sec. 3. This act shall apply only to the County of Stokes.

Sec. 4. The provisions of this act shall remain in full force and effect, unless expressly repealed by some subsequent act of the General Assembly, and shall not be repealed by implication or by general repealing clauses in any act of the General Assembly conferring authority in the North Carolina Wildlife Resources Commission over the game animals, the open season and manner of taking deer, nor shall the effect of this act be abrogated by any current regulation of the North Carolina Wildlife Resources Commission which restricts the open season for the taking of deer, with or without the use of dogs, other than as provided in this act.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1977.

H. B. 602 CHAPTER 435

AN ACT AUTHORIZING THE BOARD OF COMMISSIONERS OF DARE COUNTY TO CREATE A DARE COUNTY GAME AND WILDLIFE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Dare County Board of Commissioners is hereby authorized, subject to the provisions of this act, to create, in its discretion, a commission composed of 15 residents of Dare County to be known as the "Dare County Game and Wildlife Commission".

Sec. 2. All members of the initial commission, as well as vacancies occurring thereon by reason of death, resignation or otherwise, shall be filled by a majority vote of the county commissioners. To the initial commission, the county commissioners shall appoint five members for a one-year term, five members for a two-year term, and five members for a three-year term. Thereafter, all members of the commission shall serve five-year terms.

The initial chairman of the commission shall be chosen by the county commissioners from among those persons appointed for a three-year term and shall be chairman for three years. Thereafter the chairman of the commission shall be chosen by a majority vote of the commission members to serve for a three-year term. In the event the initial chairman or a subsequent chairman resigns as chairman or ceases to be a member of the commission for any reason, the commission shall choose a member of the commission to serve out the remaining term as chairman.

The commission shall elect from its membership a vice-chairman and a secretary-treasurer, each of whom shall serve a one-year term. Vacancies in the office of vice-chairman and secretary-treasurer shall be filled in the same manner as that of chairman.

No officer of the commission shall succeed himself for more than three successive terms.

A quorum of the commission shall be nine and a simple majority of those present shall be necessary to take official action.

The commission shall meet at least twice in each calendar year in Dare County and it shall meet upon call of the chairman or upon written request of any five members.

It shall not be a conflict of interest for a commission member to discuss or vote upon his own license application.

Sec. 3. The commission shall have full authority in the licensing of exclusive geographic locations in Dare County for the purpose of hunting transitory wildfowl from a blind, box or other permanent or semipermanent structure or device constructed thereon.

The commission shall maintain a map and record system defining site locations and licensees.

The commission is authorized to collect a fee of no more than five dollars ($5.00) per renewal license issued and twenty-five dollars ($25.00) per new license issued which fees shall be used to defray expenses in the printing of licenses and any other necessary or proper expenses of the commission. Funds shall be held and accounted for as required by the General Statutes for counties or municipalities.

Licenses shall be issued for the period July 1 through June 30 each year and the balance in the account of the commission on June 30 shall be paid to the General Fund of Dare County.

The commission shall, after a public hearing to discuss proposed rules and regulations, establish, adopt and publish written rules and regulations, which shall be available to the public for a reasonable fee, governing the issuance and reissuance of licenses.

The commission shall adopt an official seal, a facsimile of which shall be exhibited on all licenses.

Sec. 4. The commission shall have authority to hear and review all licensing disputes, shall have authority to subpoena witnesses, and shall notify all direct parties in interest by certified mail at least 10 days prior to the hearing. The commission shall have power to grant, alter, revise or revoke licenses in accord with its rules and regulations.

Appeals from decisions of the commission shall be to the district court, where they shall be heard de novo.

The granting of a license is a privilege and not a vested property right.

Sec. 5. After rules and regulations are established by the commission, the Dare County Board of Commissioners is authorized to enact an ordinance providing it is a misdemeanor to hunt within a prohibited distance of an occupied and properly licensed blind unless the hunting is from a blind licensed pursuant to this act.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1977.

S. R. on. **CHAPTER 436**

AN ACT TO PREVENT THE USE OF ARTIFICIAL LIGHT IN AREAS INHABITED BY GAME IN SCOTLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Any person who, from 30 minutes after sunset on any day until 30 minutes before sunrise on the following day, deliberately flashes or displays an artificial light from or attached to a motor-driven conveyance or from any means of conveyance attached to said motor-driven conveyance so as to cast the beam thereof beyond the surface of a roadway on any field, woodland or forest in an area frequented or inhabited by wild game animals shall be guilty of a misdemeanor. Every person occupying such vehicle or conveyance at the time of such violation shall be deemed *prima facie* guilty of such violation as a principal.

Sec. 2. The North Carolina Wildlife Resources Commission is authorized to issue permits to use lights for wildlife research purposes only.

Sec. 3. Each person violating the provisions of this act, shall, on the first conviction thereof, be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00). Upon a second or subsequent conviction, such persons shall be fined not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) or imprisoned not more than 60 days, or both, at the discretion of the court.

Sec. 4. The provisions of this act shall not apply to the person while on land owned by him in fee simple or in which he has a life estate or a person who leases land for agricultural purposes, but the fact of such ownership shall be a matter of defense in any prosecution for violation of this act.

Sec. 5. All lawful peace officers of the county and State, including wildlife protectors, shall have authority to arrest for violations of this act.

Sec. 6. This act shall apply only to Scotland County.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1977.

H. B. 883 **CHAPTER 437**

AN ACT TO PERMIT PROFESSIONAL BOXING IN CUMBERLAND COUNTY SUBSEQUENT TO THE CREATION OF A BOXING COMMISSION FOR CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 14-271, it shall be lawful to engage in and advertise for a prizefight, sparring match, or glove or fist contest for money or other valuable prize or stake in any part of Cumberland County not within a city; provided, the Board of County Commissioners of Cumberland County, acting pursuant to the authority granted in G.S. 153A-134, first adopts an ordinance establishing a Boxing Commission for Cumberland County in order to provide proper regulation of boxing exhibitions in accordance with the best interests of the public.

Sec. 2. After adoption of the ordinance described in Section 1 of this act and notwithstanding the provisions of G.S. 14-271, it shall be lawful to engage in and advertise for a prizefight, sparring match, or glove or fist contest for money

or other valuable prize or stake in any city within Cumberland County whose governing board, acting pursuant to G.S. 153A-122, first adopts a resolution making said ordinance applicable within the city. Any such city may thereafter by resolution withdraw its permission to said ordinance in accordance with the provisions of G.S. 153A-122.

Sec. 3. This act shall become effective upon ratification and shall remain effective so long as the Cumberland County Boxing Commission continues in active regulation of boxing exhibitions.

In the General Assembly read three times and ratified, this the 26th day of May, 1977.

H. B. 1025 CHAPTER 438

AN ACT TO PERMIT VEHICLES TRANSPORTING HUMAN TISSUES AND ORGANS TO USE WARNING DEVICES AND RED LIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-125(b) as same appears in the 1975 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by inserting immediately after the word "association" and immediately before the word "and" appearing in line 5 the words and punctuation, ", vehicles designed, equipped and used exclusively for the transportation of human tissues and organs for transplantation,".

Sec. 2. G.S. 20-130.1 of the General Statutes is hereby amended by inserting immediately after the word "ambulances" and immediately before the word "fire-fighting" appearing in line 5 the words and punctuation, ", vehicles designed, equipped and used exclusively for the transportation of human tissues and organs for transplantation,".

Sec. 3. G.S. 20-156(b) of the General Statutes, as contained in Section 4 of Chapter 52 of the 1977 Session Laws, is hereby amended by inserting immediately after the word "ambulances" and immediately before the word "and" appearing in the first sentence thereof the words and punctuation, ", vehicles designed, equipped and used exclusively for the transportation of human tissues and organs for transplantation"; and by inserting immediately after the word "ambulance" and immediately before the word "or" in the second sentence the words and punctuation, "or vehicles designed, equipped and used exclusively for the transportation of human tissues and organs for transplantation".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1977.

H. B. 1234 **CHAPTER 439**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FARMVILLE, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 36 of the Session Laws of 1965 is amended by rewriting paragraph 2 of Section 4 thereof — the paragraph beginning with the words "The mayor and each member" and ending with the words "as provided therein" — to read as follows:

"The mayor and each member of the board of commissioners shall receive a salary, the amount of which shall be prescribed by ordinance. Any changes in salaries shall be made in accordance with the laws of the State of North Carolina."

Sec. 2. Chapter 36 of the Session Laws of 1965 is further amended by deleting paragraph 3 of Section 4 thereof — the paragraph beginning with the words "No ordinance fixing or changing" and ending with the words "next ensuing two-year term."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1977.

S. B. 165 **CHAPTER 440**

AN ACT TO PERMIT CRIMINAL PROSECUTION UPON THE INITIAL VIOLATION OF OBSCENITY LAWS THAT RELATE TO MINORS AND NON-CONSENTING ADULTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-190.2(h), as it appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is rewritten to read as follows:

"(h) No person, firm, or corporation shall be arrested or indicted for any violation of G.S. 14-190.1, G.S. 14-190.3, G.S. 14-190.4 or G.S. 14-190.5 until the material involved has first been the subject of an adversary determination under the provisions of this section, wherein such person, firm, or corporation is a respondent, and wherein such material has been declared by the court to be obscene and until such person, firm or corporation continues subsequent to such determination, to engage in the conduct prohibited by a provision of the sections hereinabove set forth.

Notwithstanding any provision of G.S. 14-190.2, an adversary determination to adjudge whether material is obscene shall not be required prior to the arrest or indictment of any person, firm or corporation for a violation of any provision of G.S. 14-190.6, G.S. 14-190.7, G.S. 14-190.8, or whether such material is sexually oriented pursuant to G.S. 14-190.10 or G.S. 14-190.11."

Sec. 2. G.S. 14-190.7 is amended by changing the period on line 6 to a comma and adding the following:

"except this statute shall not apply to a teacher, a member of the clergy, priests, and rabbis, physician, nurse, or a librarian in the discharge of official responsibilities."

Sec. 3. G.S. 14-190.8 is amended by changing the period on line 6 to a comma and adding the following:

"except this statute shall not apply to a teacher, a member of the clergy, priests, and rabbis, physician, nurse, or a librarian in the discharge of official responsibilities."

Sec. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity will not affect other provisions or applications of the act that can be given effect without the invalid provisions or application; and to this end the provisions of this act are severable.

Sec. 5. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 26th day of May, 1977.

H. B. 595 CHAPTER 441

AN ACT TO ESTABLISH THE HUNTING HOURS FOR DEER WHILE STILL HUNTING IN PENDER AND NEW HANOVER COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, it shall be lawful to hunt male deer during open season without the aid of any type of artificial light from any erected stand or platform, not less than eight feet tall, in or adjoining any cultivated field from daylight to 30 minutes past sundown without the aid of dogs.

Sec. 2. This act shall apply to female (doe) deer when authorized by law or rules of the Wildlife Resources Commission.

Sec. 3. This act shall apply only to the Counties of Pender, New Hanover, Alleghany, Ashe, Bertie, and Watauga.

Sec. 4. The provisions of this act shall remain in full force and effect, unless expressly repealed by some subsequent act of the General Assembly, and shall not be repealed by implication or by general repealing clauses in any act of the General Assembly conferring authority in the North Carolina Wildlife Resources Commission over the hours for taking male deer from a stand in a cultivated field or field herein provided for.

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

H. B. 691 CHAPTER 442

AN ACT TO ELECT MEMBERS OF THE MOORE COUNTY BOARD OF EDUCATION THROUGH THE NONPARTISAN PRIMARY AND ELECTION METHOD.

The General Assembly of North Carolina enacts:

Section 1. Members of the Moore County Board of Education shall be elected through the nonpartisan primary and election method as provided for in G.S. 163-294.

Sec. 2. As vacancies occur because of expiration of the term of office in the membership of the Moore County Board of Education, there shall be a primary to narrow the field of candidates to two candidates for each position to

be filled if, when the filing period closes, there are more than two candidates for a particular district or for the at-large position. If only one or two candidates file for a single district, or for the at-large position, no primary shall be held for that position and the candidates shall be declared nominated.

Sec. 3. In the primary, the two candidates filing for a particular district, or for the at-large position, receiving the highest number of votes shall be declared nominated.

Sec. 4. In the general election held in November following the primary, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate from each district, or for the at-large position, receiving the highest number of votes shall be elected.

Sec. 5. Absentee voting shall be allowed in all elections for membership to the Moore County Board of Education.

Sec. 6. Except as amended herein, Chapter 882 of the 1967 Session Laws shall continue in full force and effect with respect to the election of members of the Moore County Board of Education.

Sec. 7. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

H. B. 846 CHAPTER 443

AN ACT TO INCREASE THE MEMBERSHIP OF THE BRUNSWICK COUNTY BOARD OF EDUCATION AND TO PROVIDE FOR THE ELECTION OF MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Brunswick County shall consist of six members, one to be elected from each of the six townships of the county, for staggered terms as herein provided. The election shall be nonpartisan and no primary election shall be held. The election shall be held at the same time as the general election for county officers. Candidates shall be elected by the qualified voters of the county school administrative area. Except as provided in this act, the election shall be held in accordance with the general election laws of the State.

Sec. 2. Candidates shall be residents of the township for which they seek election. Candidates shall file notice of candidacy with the county board of elections on forms to be prescribed by the board of elections. Notice of candidacy shall be filed no later than 12:00 noon on the first Friday in August prior to the election, and candidates shall pay the filing fee required for county officers in G.S. 163-107. Members elected shall take office and qualify as provided in G.S. 115-22. Vacancies shall be filled as provided in G.S. 115-24.

Sec. 3. Beginning with the general election for county officers to be held in 1978, four members shall be elected. The three candidates receiving the highest number of votes shall be elected for terms of four years, and the candidate receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as the term of each member of the board expires, his successor shall be elected for a term of four years.

Sec. 4. The board of education shall hold its organizational meeting on the first Monday in December after each election, and shall elect one of its members as chairman. The chairman shall not vote to create a tie vote.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

H. B. 847 CHAPTER 444

AN ACT TO INCREASE THE MEMBERSHIP OF THE BRUNSWICK COUNTY BOARD OF COMMISSIONERS AND TO PROVIDE FOR THEIR ELECTION.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Brunswick County shall consist of six members who shall serve for staggered terms as herein provided, and who shall be nominated and elected by the qualified voters of the county. Their term of office shall begin on the first Monday in December after their election.

Sec. 2. At the general election to be held in 1978, four members shall be elected. The three candidates receiving the highest number of votes shall be elected for a term of four years, and the candidate receiving the next highest number of votes shall be elected for a term of two years. Thereafter as the term of each member expires, his successor shall be elected for a term of four years.

Sec. 3. One member of the board of commissioners shall be elected from each of the six townships of the county, and candidates shall be residents of the township for which they seek election. In the case of a vacancy, the person appointed to fill the vacancy shall be a resident of the same township as the member whose position becomes vacant.

Sec. 4. The board of county commissioners shall hold its organizational meeting on the first Monday in December after each election and elect one member as chairman of the board. The chairman shall not vote to create a tie vote.

Sec. 5. Chapter 299, Public-Local Laws of 1933; Chapter 773, Session Laws of 1959; and Chapter 35, Session Laws of 1975 are repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

H. B. 1136 CHAPTER 445

AN ACT TO CHANGE THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION MILEAGE ALLOWANCE FROM TEN CENTS PER MILE TO FIFTEEN CENTS PER MILE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of 1971 Session Laws Chapter 760, which set the Mecklenburg County School Board mileage allowance at ten cents (10¢) per mile, is repealed.

Sec. 2. The Charlotte-Mecklenburg Board of Education members and chairman shall be allowed fifteen cents (15¢) per mile as expenses for travel between their homes and the place of any meeting of the board, for travel in

furtherance of the business and affairs of schools, and for the purpose of promoting the best interest of the schools. The travel allowances shall be paid monthly by the board.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

S. B. 66

CHAPTER 446

AN ACT TO AMEND VARIOUS STATUTES REGARDING THE ADMINISTRATION OF DECEDENTS' ESTATES.

The General Assembly of North Carolina enacts:

Section 1. The following amendments are hereby made to Chapter 28A as the same appears in the 1976 Replacement Volume 2A of the General Statutes.

a. G.S. 28A-13-6(e) is amended by adding a sentence at the end thereof to read as follows:

"No personal representative who has not joined in exercising a power shall be liable for the consequences of such exercise, nor shall a dissenting personal representative be liable for the consequences of an act in which he joins at the direction of the majority of the personal representatives, if he expressed his dissent in writing to any other personal representative at or before the time of such joinder."

b. G.S. 28A-14-1 is amended on line 5 before the words "six months" by adding the words "at least".

c. G.S. 28A-14-1 is amended on line 6 after the word "notice." by adding the following "The notice shall set out a mailing address for the personal representative or collector."

d. G.S. 28A-19-1 is hereby rewritten to read as follows:

"§ 28A-19-1. *Manner of presentation of claims.*—(a) A claim against a decedent's estate must be in writing and state the amount or item claimed, or other relief sought, the basis for the claim, and the name and address of the claimant; and must be presented by one of the following methods:

(1) By delivery to the personal representative or collector.

Such claim will be deemed to have been presented from the time of such delivery.

(2) By mailing, first-class mail, to the personal representative or collector at the address set out in the general notice to creditors. Such claim will be deemed to have been presented from the time of deposit of the claim enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care of the United States Postal Service.

(b) In an action commenced after the death of the decedent against his personal representative or collector as such, the commencement of the action in the court in which such personal representative or collector qualified will constitute the presentation of a claim and no further presentation is necessary. In an action filed in any other court such claim will be deemed to have been presented at the time of the completion of service of process on such personal representative or collector.

(c) In an action pending against the decedent at the time of his death, which action survives at law, the substitution of the personal representative or

collector for the decedent or motion therefor will constitute the presentation of a claim and no further presentation is necessary. Such claim will be deemed to have been presented from the time of the substitution, or motion therefor."

e. G.S. 28A-19-2 is amended by designating the existing paragraph as subsection "(b)" and is hereby further amended by adding a subsection "(a)" as follows:

"(a) If the personal representative or collector so elects, he may demand any or all of the following prior to taking action on the claim:

(1) If the claim is not yet due, that the date when it will become due be stated;

(2) If the claim is contingent or unliquidated, that the nature of the uncertainty be stated;

(3) If the claim is secured, that the security be described.";

and the catch line to G.S. 28A-19-2 is hereby amended to read as follows:

"Further information or affidavit of claim may be required."

f. G.S. 28A-19-3(a) is hereby rewritten to read as follows:

"(a) All claims against a decedent's estate which arose before the death of the decedent, except contingent claims based on any warranty made in connection with the conveyance of real estate and claims of the United States and tax claims of the State of North Carolina and subdivisions thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, secured or unsecured, founded on contract, tort, or other legal basis, which are not presented to the personal representative or collector pursuant to G.S. 28A-19-1 by the date specified in the general notice to creditors as provided for in G.S. 28A-14-1 are forever barred against the estate, the personal representative, the collector, the heirs, and the devisees of the decedent."

g. G.S. 28A-19-3(b) is hereby rewritten to read as follows:

"(b) All claims against a decedent's estate which arise at or after the death of the decedent, except claims of the United States and tax claims of the State of North Carolina and subdivisions thereof whether due or to become due, absolute or contingent, liquidated or unliquidated, secured or unsecured, founded on contract, tort, or other legal basis are forever barred against the estate, the personal representative, the collector, the heirs, and the devisees of the decedent unless presented to the personal representative or collector as follows:

(1) With respect to any claim based on a contract with the personal representative or collector, within six months after the date on which performance by the personal representative or collector is due;

(2) With respect to any claim other than a claim based on a contract with the personal representative or collector, within six months after the date on which the claim arises."

h. G.S. 28A-19-3(e) is hereby rewritten to read as follows:

"(e) Unless a claim has been presented pursuant to G.S. 28A-19-1 giving notice of an action or special proceeding pending against a decedent at the time of his death and surviving under G.S. 28A-18-1 by the date specified in the general notice to creditors as provided in G.S. 28A-14-1, no recovery may be had upon any judgment obtained in any such action or proceeding against the estate, the personal representative, the collector, the heirs, and the devisees of the decedent."

i. G.S. 28A-19-4 is amended on lines 4 and 5 by deleting the words "expiration of six months after the day of the first publication or posting of" and inserting in lieu thereof the words "the date specified in".

j. G.S. 28A-21-1 is amended on lines 1 and 2 by deleting the words "If an extension of time to file the final account has been granted by the clerk of superior court." and inserting in lieu thereof the following "Until the final account has been filed".

k. G.S. 28A-21-2(b) is amended on lines 1 and 2 by deleting the words "upon the expiration of six months after the day of the first publication or posting of" and by inserting in lieu thereof the words "after the date specified in".

l. G.S. 28A-23-1 is amended on line 5 by deleting the citation to "G.S. 28A-22-5" and inserting in lieu thereof a citation to "G.S. 28A-21-2".

m. G.S. 28A-14-3 is rewritten to read as follows:

"§ 28A-14-3. *Personal notice to creditors required.*—In addition to the general notice required by G.S. 28A-14-1, the personal representative shall mail, by certified or registered mail, to each creditor a statement that his claim will be barred unless the creditor presents his claim in the time and manner set out in Article 19 of this Chapter. Any creditor to whom such notice was not mailed shall not be barred by the provisions of G.S. 25A-19-3 from prosecuting his claim, and the time limitations set out in General Statutes Chapter 1 shall govern the period within which such claim may be brought. Claims brought under this section may be paid from any undistributed assets of the estate."

n. G.S. 28A-19-3(d) is hereby rewritten to read as follows:

"(d) All claims of creditors upon whom there has been personal service of notice as provided in G.S. 28A-14-3 are forever barred unless presented to the personal representative or collector within the time and manner set out in this Article."

Sec. 2. G.S. 1-22 as the same appears in the 1969 Replacement Volume 1A is hereby amended to read as follows:

"§ 1-22. *Death before limitation expires; action by or against personal representative or collector.*—If a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced by his personal representative or collector after the expiration of that time, and within one year from his death. If a person against whom an action may be brought dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced against his personal representative or collector after the expiration of that time; provided, the action is brought or notice of the claim upon which the action is based is presented to the personal representative or collector within the time specified for the presentation of claims in G.S. 28A-19-3. If the claim upon which the cause of action is based is filed with the personal representative or collector within the time above specified, and its validity is admitted in writing by him, it is not necessary to bring an action upon such claim to prevent the bar, but no action shall be brought against the personal representative or collector upon such claim after his final settlement."

Sec. 3. G.S. 1A-1, Rule 25(a) as the same appears in the 1969 Replacement Volume 1A is hereby rewritten to read as follows:

"(a) Death. No action abates by reason of the death of a party if the cause of action survives. In such case, the court, on motion at any time within the time

specified for the presentation of claims in G.S. 28A-19-3, may order the substitution of said party's personal representative or collector and allow the action to be continued by or against the substituted party."

Sec. 4. G.S. 12-3(3) as the same appears in the 1969 Replacement Volume 1B is hereby amended by adding a sentence at the end thereof to read as follows:

"When a statute refers to a period of one or more months and the last month does not have a date corresponding to the initial date, the period shall expire on the last day of the last month."

Sec. 5. This act shall apply only to the administration of the estates of persons who die on or after the effective date of this act.

Sec. 6. This act shall become effective on September 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

S. B. 377 CHAPTER 447

AN ACT TO REGULATE POSSESSION AND USE OF FIREARMS ON PUBLIC HIGHWAYS IN SCOTLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. No person shall carry or possess a loaded shotgun or rifle within the right-of-way of any public road or highway which is a part of the primary or secondary highway system of the State of North Carolina.

Sec. 2. It shall be unlawful for any person to shoot or discharge any type of firearm from, onto, or across the right-of-way of any road or highway described in Section 1 of this act.

Sec. 3. This act shall not apply to any person exempted from G.S. 14-269 while in the discharge of his or her official duties, or to the owner or lessee of any land abutting upon a paved or unpaved secondary road on that portion of such road which adjoins such land, or to any person who has in his possession valid, written permission from such owner or lessee to hunt on such abutting land during the hunting season.

Sec. 4. All peace officers of counties and municipalities, within the limits of their respective territorial jurisdiction, and of the State including enforcement officers of the Wildlife Resources Commission, are empowered to enforce the provisions of this act.

Sec. 5. A person violating any provision of this act shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed fifty dollars ($50.00), imprisonment not to exceed 30 days, or both.

Sec. 6. This act shall apply only to Scotland County.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

S. B. 513 **CHAPTER 448**

AN ACT CHANGING THE METHOD BY WHICH THE PROFITS OF THE HALIFAX COUNTY BOARD OF ALCOHOLIC BEVERAGE CONTROL SHALL BE DISTRIBUTED.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 1257 of the 1959 Session Laws is amended by deleting subsection (b)(3) concerning payment of ABC profits for library services.

Sec. 2. Section 4 of Chapter 1257 of the 1959 Session Laws is further amended by deleting the words "and (3)" from the first line of subsection (b)(4) and by replacing the comma between "(1)" and "(2)" in that line with the word "and".

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

S. B. 523 **CHAPTER 449**

AN ACT TO AMEND CHAPTER 391, SESSION LAWS OF 1963 TO PROVIDE THAT THE NEW HANOVER COUNTY BOARD OF EDUCATION SHALL CONSIST OF SEVEN MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 391, Session Laws of 1963, is hereby amended by deleting from Section 1 the word and figure "six (6)" and inserting in lieu thereof the word and figure "seven (7)".

Sec. 2. The terms of office of those members now serving on the New Hanover County Board of Education shall not be changed. Elections shall be held in 1978, 1980 and biennially thereafter to fill vacancies as they occur for terms of four years. There shall be four vacancies in 1978 and every four years thereafter and three vacancies in 1980 and every four years thereafter.

Sec. 3. This act shall apply to New Hanover County only.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

S. B. 530 **CHAPTER 450**

AN ACT TO RAISE THE MINIMUM TERM FOR IMPRISONMENT IN THE STATE PRISON SYSTEM FROM 30 TO 180 DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-30 as the same appears in the 1974 Replacement Volume 3C of the General Statutes is hereby amended by rewriting the last sentence to read as follows:

"No male misdemeanant offender shall be so assigned whose total term of imprisonment is less than 180 days."

Sec. 2. G.S. 148-32 is hereby repealed.

Sec. 3. Chapter 148 of the General Statutes is hereby amended by adding a new section thereto to be numbered and to read as follows:

"§ 148-32.1. *Local confinement, costs, alternate facilities, parole, work release.*—(a) The Secretary of the Department of Correction is hereby authorized and empowered to contract with local government entities which have under their control local confinement facilities housing prisoners serving sentences of 30 to 180 days. The Secretary of the Department of Correction is authorized and empowered to pay to the appropriate local confinement facility the per diem cost of providing food, clothing, personal items, supervision and necessary medical services to those prisoners serving sentences of 30 to 180 days. Any contract made pursuant to this authority shall be for a period of not more than two years, and shall be renewable biennially for a period not to exceed two years. The financial provisions of the contract shall be approved by the Secretary of the Department of Administration before the contract is executed and shall include a provision setting the per diem rate or reimbursement. The per diem rate of reimbursement shall be based upon consideration of local staff requirements, cost of confinement of other inmates in local confinement facilities, average per diem cost of confinement of inmates in minimum custody facilities in the Department of Correction, and other relevant factors. Such contracts shall take into consideration additional staff and expenses incurred by the local confinement facility.

(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which said local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the judicial district where the facility is located, or any judge of the superior court or a special judge of the superior court assigned to hold court in the judicial district where the facility is located may order that the prisoner be transferred to any other qualified local confinement facility within that judicial district. If no such local confinement facility is available, then any such judge may order the prisoner transferred to such camp or facility as the proper authorities of the Department of Correction shall designate, notwithstanding that the term of imprisonment of the prisoner is less than 180 days. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to any such camp or facility.

(c) When a prisoner is assigned to a local confinement facility pursuant to this section, the clerk of the superior court in the county in which the sentence was imposed shall immediately forward a copy of the commitment order to the Parole Commission so that the prisoner will be eligible for misdemeanant parole pursuant to G.S. 148-60.3.

(d) In the event that the prisoner serving a sentence of 30 to 180 days in a local confinement facility is placed on work-release by the sentencing court pursuant to G.S. 148-33.1(a), the Department of Correction shall be responsible for deducting the appropriate fees from the work-release earnings of the prisoner pursuant to G.S. 148-33.1. In order for the Department of Correction to make the appropriate deductions, it shall be the responsibility of the custodian

of the local confinement facility to forward the work-release earnings of the prisoner to the Department of Correction.

(e) Upon entry of a prisoner into a local confinement facility pursuant to this section, the custodian of the local confinement facility shall forward to the Parole Commission information pertaining to the prisoner so as to make him eligible for parole consideration pursuant to G.S. 148-60.3. Such information shall include date of incarceration, jail credit, and such other information as may be required by the Parole Commission. The Parole Commission shall approve a form upon which the custodian shall furnish this information, which form will be provided to the custodian by the Department of Correction."

Sec. 4. G.S. 148-33.1(a) as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is rewritten to read as follows:

"(a) Whenever a person is sentenced to imprisonment for a term not exceeding five years to be served in the State prison system or a local confinement facility, the Secretary of the Department of Correction may authorize the Director of Prisons or the custodian of the local confinement facility to grant work-release privileges to any such inmate as may be eligible for the program as is hereinafter established. The Department of Correction or the custodian of the local confinement facility, upon recommendation of the presiding judge, shall immediately issue temporary work-release privileges to any inmate so recommended upon verification of employment or at such time after commitment to the Department of Correction or to a local confinement facility as employment can be obtained and verified."

Sec. 5. G.S. 148-33.1(c) as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is amended by rewriting the second sentence to read as follows:

"No State or county prisoner shall be granted work-release privileges until suitable facilities for quartering him have been provided in the area where the prisoner has employment or the offer of employment."

Sec. 6. G.S. 148-60.3(a) as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on lines 2 and 3 by deleting the words and punctuation "within the jurisdiction of the Department of Correction," and inserting in lieu thereof the words "serving a minimum sentence of 30 days or".

Sec. 7. G.S. 148-60.3(c) as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 2 after the word "Correction" by adding the following "or the custodian of the local confinement facility".

Sec. 8. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Correction to implement the provisions of this act.

Sec. 9. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

S. B. 666 **CHAPTER 451**

AN ACT TO AUTHORIZE THE CITY OF ALBEMARLE TO CONVEY CERTAIN REAL AND PERSONAL PROPERTY.

Whereas, the City of Albemarle, pursuant to an agreement with Collins & Aikman Corporation dated May 13, 1955, acquired and holds a certain parcel of land by deed of gift from Collins & Aikman Corporation for the purpose of enlarging the water distribution system of the City of Albemarle, by erecting and maintaining on said parcel an elevated water storage tank to provide water to an industrial facility owned by Collins & Aikman Corporation located north of the corporate limits of the City of Albemarle; and

Whereas, pursuant to the aforesaid agreement Collins & Aikman Corporation contributed the sum of fifteen thousand dollars ($15,000) to the construction of the elevated water storage tank, and the City of Albemarle constructed and since has maintained on said parcel of land the elevated water storage tank for the purposes aforesaid; and

Whereas, the expense of maintaining said elevated water storage tank has been unduly costly and financially burdensome on the City of Albemarle, and in the opinion of the governing authorities of the City of Albemarle the maintenance of said tank will continue to be a financial burden on the City of Albemarle for the foreseeable future; and

Whereas, Collins & Aikman Corporation has agreed to accept a reconveyance of said parcel of land from the City of Albemarle, together with the elevated water storage tank located thereon, and thereafter be responsible for the maintenance, upkeep and repair of said elevated water storage tank; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The mayor and the governing authorities of the City of Albemarle hereby are authorized and empowered to execute and deliver to Collins & Aikman Corporation, without further consideration, a deed conveying to Collins & Aikman Corporation the lands theretofore conveyed to the City of Albemarle by said corporation by deed recorded in Deed Book 183, page 237, Stanly County Registry, together with the elevated water storage tank, all pipes, equipment and apparatus thereon found, which said parcel of land is more particularly described as follows:

Lying and being in North Albemarle Township, Stanly County, North Carolina, bounded and described as follows:

Beginning at the northwest corner of the lot, said corner being South 3-15 West 80 feet from the East-West building line of the Manufacturing Building, extended, and South 41-45 East 108.7 feet from the southeast corner of the Manufacturing Building, and runs thence South 3-15 West 75 feet to a stake; thence South 80-45 East 75 feet to a stake; thence North 3-15 East 75 feet to a stake; thence North 80-45 West 75 feet to the beginning, the same being a portion of the thirty (30) acre tract of land conveyed to the Grantor by Dewey T. Clayton and wife Christine M. Clayton on May 21, 1955, and recorded in the office of the Register of Deeds in Deed Book 177, page 581.

Sec. 2. All laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1977.

H. B. 700

CHAPTER 452

AN ACT TO INCORPORATE THE TOWN OF RUTHERFORD COLLEGE IN BURKE COUNTY, NORTH CAROLINA.

Whereas, the Community of Rutherford College was incorporated in 1872 and existed as an incorporated town until 1933, when it was abolished by an act of the legislature; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A charter for the Town of Rutherford College shall be as follows:

"CHAPTER I.

"Incorporation and Corporate Powers.

"Section 1.1. Incorporation. The inhabitants of the area described in Chapter II of this act shall be and constitute a body politic and corporate under the name of 'Town of Rutherford College', and shall have all of the power, authority, rights, privileges and immunities conferred upon municipal corporations by the Constitution and General Laws of North Carolina and particularly Chapter 160A of the General Statutes.

"Sec. 1.2. Powers. The town shall have all the powers, duties, rights, privileges and immunities now vested in the town and now or hereafter granted to municipal corporations by the Constitution, by the General Laws of the State of North Carolina, and by this charter. The town shall exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, and general welfare of the city and of its inhabitants, and all implied powers necessary to carry into execution all powers granted as fully and completely as if such powers were fully enumerated herein.

"Sec. 1.3. Noncontiguous annexation. Notwithstanding any laws to the contrary, the Town of Valdese may annex, pursuant to Article 4 of G.S. 160A, areas not contiguous to its primary corporate limits which are closer to the primary corporate limits of the Town of Rutherford College than to the primary corporate limits of the Town of Valdese. The Town of Rutherford College may not annex any area by any means after receipt by the Town of Valdese of a petition from such area for annexation unless the Town of Valdese fails to annex such area within 60 days from receipt of such petition.

"Sec. 1.4. Limits on annexation. Notwithstanding any provisions of the laws of North Carolina to the contrary, the corporate limits of the Town of Rutherford College shall not be altered by annexation by any means within the areas lying West of Rural Paved Road 1824 or Rural Paved Road 1001 before July 1, 1981; and the corporate limits shall not be altered by annexation within the area lying West of the center line of the aforesaid paved roads, by any means other than annexation as provided by G.S. 160A-31 or its successor statute, before July 1, 1987.

"CHAPTER II.

"Corporate Boundaries.

"Sec. 2.1. Town boundaries. The corporate boundaries of the Town of Rutherford College, until changed in accordance with law, are as follows:

Lying and being in Burke County, North Carolina and as set out on a map entitled 'Boundary Map of the Town of Rutherford College' which will be

maintained in the Office of the Town Clerk as required by G.S. 160A-22 and more particularly as follows:

This description of the Town of Rutherford College will begin on the north side of Highway 64-70 and the southwest corner of Lot 1, Section 10, Map L13. This point borders on Highway 64-70. The line would then progress in a northerly direction with the property on the right being within the town. The line will progress along the west side of Lot 1 and 10, Section 10. It would then cross a small lane and then proceed northerly along the west side of Lot 1, Section 1, Map L13, crossing the terminus of a small lane and then along the east side of Lot 1, Section 8 and Lot 1, Section 9. Approximately two-thirds the distance along the west side of Lot 1, Section 9 the line will then progress in a westerly direction along the south border of Lot 27B to its southeast corner and will then progress northerly along the west side of Lots 27B, 27A, 10, 11 and 12, Section 9, Map L13, junctioning with SR 1554. The line will then cross SR 1554 progressing northerly along the eastern side of Lot 1, Section 1, Map L14, with the land to the right being within the town limits. The line will then progress successively in a westward direction, southerly direction, northerly direction along the western half of Lot 37J, Section 1, Map L14. It progresses further along the western side of Lots 4A and 4, Section 2, Map L19. The line then junctions with SR 1558. The boundary then progresses in a northwesterly direction along the southwest right-of-way of SR 1558 and a small access road junctioning with the south side of Lot 5, Section 1 near its southwest corner. The line will then progress westwardly along the south boundaries of Lot 6, 7 and 8, Section 1, Map L19 to the southwest corner of Lot 8. The line then progresses in a northerly direction along the west boundaries of Lot 8, 9, 13G, and 13A, Section 1, with the property to the right being within the town. The line then junctions with the southwest corner of Lot 9, Section 1, Map L18. It then progresses in an easterly direction to the southwest corner of the same lot and then northerly along the east boundary of Lot 9, junctioning with SR 1546, along its south right-of-way. The line then crosses SR 1546 to the southeast corner of Lot 8, Section 2, Map L18 and then progresses along the northern right-of-way of SR 1546 to the southeast corner of the same lot. It then progresses along the east border of Lot 8 in a northerly direction to the south boundary of Lot 7, Section 2 approximately midway between its southeast and southwest corner. The line then progresses along the south border of Lot 7, Section 2, Map L18 to its southeast corner and then in a northerly direction along the west boundaries of Lots 13, 12 and 14 of Section 2, Map L18. The line will then follow the western boundary of Lot 14 to its northwest corner at a point where it joins the northeast corner of Lot 1A. The line will then progress easterly along the north side of Lots 14 and 15, Section 2, Map L18, with the property to the right being within the town. The line then progresses in an eastward direction across the north boundary of Lot 1, Section 1, Map L16 to the southeast corner of Lot 1, Map L17. From this point the line progresses northward along the west boundary of Lot 4 to its northwest corner. It then progresses a short way eastward and thence southeastward along the east border of Lots 4, 10, 5 and 6 to the southeastern corner of Lot 6. The line then progresses in a northwesterly direction along the west side of Lot 20, Section 1, Map L16 to its northwest corner. From this point the line progresses eastward along the north borders of Lots 20 and 16 junctioning with SR 1001.

Proceeding east, the line crosses Highway SR 1001 coinciding with the northern border of Lots No. 1 and 2 (Section 2 on L-16) and then in a southerly direction, with all property on the right being within the town. The line will coincide with the east boundaries of Lots No. 2 (Section 2) and Lots 1, 5, 4 (Section 3) to Abernethy Heirs line.

The line then proceeds east along Abernethy Heirs line (Lot 4-21) to it's northeast corner and then south to it's junction with the east line of Lot 2 (map L-8). The line then follows in a southerly direction the east line of Lot 2 to it's junction with SR 1602, with property to the right being within the town.

The line then proceeds east along the north boundary of a 6.9 acre lot (not numbered), and south along it's east boundary, joining the northwest corner of Lot No. 32 (map L-9, Section 4). The line then goes east along the north boundary of Lot 32, junctioning with the waters of Island Creek.

The boundary then follows Island Creek southward to a tributary known as Lail's Creek, then up Lail's Creek to a point where it crosses under the Southern Railroad tracks. The boundary then proceeds west along Southern's Line to the east boundary of Lot No. 9 (Section 7) map L-12 (1963), proceeding north along said boundary to the South boundary of Lot 8 and then west along south boundary of Lot 8 to an unnumbered road and then north to Highway 64-70, crossing to north side. The line coincides with the east boundaries of Lots No. 11, 11A, and a portion of 10.

The boundary then proceeds west along right-of-way of Highway 64-70 to the starting point.

There is excluded from the above-described corporate limits of Rutherford College the following described property belonging to Valdese General Hospital, Inc.:

BEGINNING on an iron pipe located in the intersection of State Road 1001 and State Road 1604 and runs thence with State Road 1001, South 7 degrees 47 feet East 159.00 feet to an iron pipe; thence South 0 degrees 53 feet East 634.00 feet to an iron pipe; thence South 7 degrees 36 feet West 524.73 feet to an iron pipe, Lynn Corner; thence South 73 degrees 33 feet East 1190.56 feet to an iron pipe, Stroupe corner; thence North 0 degrees 33 feet East 688.60 feet to an iron pipe; thence South 77 degrees 41 feet East 379.00 feet to an iron pipe; thence North 2 degrees 02 feet West 557.27 feet to an iron pipe; thence North 89 degrees 22 feet West 234.96 feet to an iron pipe; thence North 8 degrees 03 feet West 569.00 feet to an iron pipe; thence South 85 degrees 55 feet West 349.57 feet to an iron pipe; thence the same course, South 85 degrees 55 feet West 800.00 feet (total distance 1149.57 feet) to an iron pipe, the point of BEGINNING, the same containing a total of 43.75 acres, more or less.

Provided that the property of Valdese General Hospital, Inc., or any part thereof, may not hereafter be annexed to any municipality unless petitioned by the Board of Trustees of Valdese General Hospital, Inc. requesting such annexation, notwithstanding the provisions of Article 4A of Chapter 160A of the General Statutes of North Carolina or any other statutes providing for the extension of corporate limits of municipalities in the State of North Carolina.

"Sec. 2.2. Electoral boundaries. Until modified in accordance with the law, the boundaries of the electoral district of the Town of Rutherford College shall be as set forth in Section 2.1.

"CHAPTER III.

"Governing Body.

"Sec. 3.1. Number of members. The governing body shall consist of six council members and the mayor.

"Sec. 3.2. Manner of election of council. The qualified voters of the entire Town of Rutherford College shall elect the members of the board.

"Sec. 3.3. Term of office of the members of the board. Beginning with the regular municipal election to be held in 1977, the three candidates for town council receiving the highest number of votes shall be elected for a term of four years, and the three candidates receiving the next highest number of votes shall be elected for a term of two years. Thereafter as the terms of each member expire, their successors shall be elected for terms of four years.

"Sec. 3.4. Election of mayor - term of office. The qualified voters of the entire Town of Rutherford College shall elect the mayor. He is elected for a four-year term of office.

"CHAPTER IV.

"Elections.

"Sec. 4.1. Conduct of town elections. The town officers shall be elected on a nonpartisan basis, and the results determined by plurality as provided in G.S. 163-292, and this includes the election of the mayor.

"Sec. 4.3. The officers elected under this act shall take office on the first Monday in December following their election and qualify by taking the oath of office. Council shall hold a regular meeting at least once a month and shall fix a time and place of its regular meetings which shall be presided over by the mayor or some official acting in his behalf.

"Sec. 4.4. First election. The first election held pursuant to this act shall be paid for by the County of Burke but the Town of Rutherford College shall reimburse the County of Burke for the costs of the election as soon as the town treasury has funds sufficient on hand.

"Sec. 4.5. Temporary officers. Until a regular municipal election to be held in November, 1977, the following six persons, W. Joe Jacumin, Claude Icard, Jr., Jimmy Huffman, Richard Jenson, J. T. Kincaid and Robert W. Bigham, are hereby appointed to act as the Council for the Town of Rutherford College and Zeb B. Malcolm is hereby appointed to act as Mayor of Rutherford College, and each person shall possess and may exercise the powers granted to the Town of Rutherford College until their successors are elected and qualified.

"CHAPTER V.

"Administration.

"Sec. 5.1. The Town of Rutherford College operates under the Mayor-Council Plan as provided in G.S. Chapter 160A, Article VII, Part 3, and other statutes and applicable law of North Carolina.

"Sec. 5.2. Salaries. The town council and mayor shall receive no salary for services rendered.

"Sec. 5.3. Municipal taxes. The fiscal affairs of the Town of Rutherford College shall be governed by Chapter 159 of the General Statutes, and all other pertinent provisions of the Constitution and General Laws of the State. The territory within the corporate limits, its citizens and property shall be subject to municipal taxes levied by the town for the fiscal year of 1978-1979, and subsequent years. The town shall obtain from Burke County, and the county shall provide, upon request, a record of the property within the corporate limits which were listed for taxation as of January 1, 1978."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1977.

H. B. 916 CHAPTER 453

AN ACT TO PERMIT OBSERVERS TO BE RELIEVED ON ELECTION DAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-45 is amended by rewriting the first paragraph to read as follows:

"The chairman of each political party in the county shall have the right to designate two observers to attend each voting place at each primary and election and such observers may, at the option of the designating party chairman, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chairman contains the names of all persons authorized to represent such chairman's political party. Not more than two observers from the same political party shall be permitted in the voting enclosure at any time. This right shall not extend to the chairman of a political party during a primary unless that party is participating in the primary. In any election in which an unaffiliated candidate is named on the ballot, he or his campaign manager shall have the right to appoint two observers for each voting place consistent with the provisions specified herein. Persons appointed as observers must be registered voters of the precinct for which appointed and must have good moral character. Observers shall take no oath of office."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1977.

S. B. 222 CHAPTER 454

AN ACT TO DEFINE AND ENLARGE THE CORPORATE LIMITS OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the City of Wilmington are hereby defined and enlarged as hereinafter provided:

AREA NO. 1

BEGINNING at a point in the eastern Harbor Line of the Cape Fear River, said point being designated as Point H-8 along said Harbor Line as established by the U. S. Corps of Engineers, said point also being on an extension of the centerline of Market Street at a point Three-hundred Forty-two (342) feet west of the western line of Front Street (a 66-foot right-of-way) as said streets are shown on the Official Plan of the City of Wilmington, North Carolina, and running thence from said beginning point along said eastern Harbor Line North Seventeen (17) degrees Twenty-one (21) minutes and Fifty (50) seconds West, Three-hundred Ninety-three and Thirty-four One Hundredths (393.34) feet to point H-9; thence continuing along said Harbor Line North Twenty-five (25) degrees Fifty-three (53) minutes and Fifty (50) seconds West, One-thousand Three-hundred Ninety-eight and Sixty-four One

Hundredths (1,398.64) feet to point H-10; thence continuing along said Harbor Line North Twenty-three (23) degrees Thirty-eight (38) minutes and Thirty (30) seconds West, Three-hundred Fifty-seven and Seven One Hundredths (357.07) feet to point H-11; thence continuing along said Harbor Line North Nine (9) degrees One (01) minute and Zero (00) seconds West, Four-hundred Forty-three and Seventy-one One Hundredths (443.71) feet to point H-12; thence continuing along said Harbor Line North Two (2) degrees Six (06) minutes and Ten (10) seconds West, One-hundred Thirty-one and Thirty-four One Hundredths (131.34) feet to point H-13; thence continuing along said Harbor Line North Zero (0) degrees Fifty-eight (58) minutes and Zero (00) seconds East, Two-hundred Ninety-six and Four One Hundredths (296.04) feet to point H-14; thence continuing along said Harbor Line North Seven (7) degrees Fifty-three (53) minutes and Forty-seven (47) seconds East, Seven-hundred (700.0) feet to point H-15A; thence continuing along said Harbor Line North Fifteen (15) degrees Forty-five (45) minutes and Zero (00) seconds East, Five-hundred Twenty-three and Seventeen One Hundredths (523.17) feet to point H-16A; thence continuing along said Harbor Line North Fourteen (14) degrees Fifty-five (55) minutes and Fourteen (14) seconds East, One-thousand Four-hundred Nine and Ten One Hundredths (1,409.10) feet to point H-17A; thence continuing along said Harbor Line North Twenty-six (26) degrees Thirty-nine (39) minutes and Forty (40) seconds East, One-hundred Forty-nine and Fifty-one One Hundredths (149.51) feet to point H-18; thence continuing along said Harbor Line North Thirty-two (32) degrees Forty-five (45) minutes and Twenty-three (23) seconds East, Nine-hundred Seventy and Three Tenths (970.3) feet to point H-19; thence continuing along said Harbor Line North Twenty-six (26) degrees Twelve (12) minutes and Fifty-four (54) seconds East, Two-hundred Nineteen and Fifty-eight One Hundredths (219.58) feet to point H-20; thence continuing along said Harbor Line North Twenty-one (21) degrees Fifty-four (54) minutes and Twenty-six (26) seconds East, Four-hundred Two and Three One Hundredths (402.03) feet to point H-21; thence continuing along said Harbor Line North Thirteen (13) degrees Thirty-nine (39) minutes and Three (03) seconds East, Six-hundred Forty-eight and Thirty-two One Hundredths (648.32) feet to point H-22; thence continuing along said Harbor Line North One (1) degree Eleven (11) minutes and Seven (07) seconds East, Two-hundred Ninety and Seven One Hundredths (290.07) feet to point H-23; thence continuing along said Harbor Line North One (1) degree Seven (07) minutes and Fifteen (15) seconds West, Five-hundred Sixty-three and Eleven One Hundredths (563.11) feet to point H-24; thence continuing along said Harbor Line North Three (3) degrees Fifty (50) minutes and Forty-nine (49) seconds East, One-hundred Nineteen and Twenty-seven One Hundredths (119.27) feet to point H-25; thence meandering northwardly parallel to and One-hundred (100) feet westwardly from the Highwater line along the eastern side of the Northeast Cape Fear River Three-thousand (3,000) feet, more or less, to a point in the run (center line) of Smith's Creek; thence meandering up the run of Smith's Creek, as it meanders in an eastwardly direction to its intersection with Spring Branch, said intersection being about Five-hundred (500) feet west of the centerline of Kerr Avenue and being a corner of a tract formerly owned by J. W. Johnson and wife; thence up the run of Spring Branch as it meanders in an easterly direction about Seven-hundred (700) feet to a point in the eastern line of Kerr Avenue (a 60-foot right-of-way); thence continuing up the run of Spring

Branch in a southerly direction about Three-hundred and Twenty-five (325) feet to the intersection of Poezolt Branch; thence meandering up the run of Poezolt Branch about One-thousand and Fifty (1,050) feet to an iron pipe in the southern line of Alandale Subdivision, said point also being the southwestern corner of Lot 10 of Alandale Subdivision as recorded in Map Book 8, page 40, New Hanover County Registry; thence along the southern line of the Alandale Subdivision South Eighty-two (82) degrees Nineteen (19) minutes East, One-thousand Six-hundred Seventy-one and One Tenth (1,671.1) feet to an old monument at the southeastern corner of the Alandale Subdivision, said point also being the southeastern corner of Lot 25 of said Subdivision; thence South Sixty-six (66) degrees Fifty-eight (58) minutes East, One-thousand and Fifteen and Forty-five One Hundredths (1,015.45) feet to a point; thence North Seventeen (17) degrees Forty-four (44) minutes East, One-hundred Seventy-one and Seventy-one One Hundredths (171.71) feet to a point in the center of Spring Branch; thence up the centerline of Spring Branch the following courses and distances: North Eighty (80) degrees Four (04) minutes and Thirty (30) seconds East One-hundred Seventy-nine and Thirty-five One Hundredths (179.35) feet, South Seventy-seven (77) degrees Forty-six (46) minutes and Thirty (30) seconds East, Fifty and Thirty One Hundredths (50.30) feet, South Sixty-five (65) degrees Twenty-one (21) minutes East, Eighty-one and Sixty-five One Hundredths (81.65) feet, South Seventy-two (72) degrees Twenty-two (22) minutes East, One-hundred Forty-seven and Thirty-five One Hundredths (147.35) feet, South Seventy-one (71) degrees Twenty-eight (28) minutes East, One-hundred Twenty-five and Thirty-five One Hundredths (125.35) feet, South Seventy-five (75) degrees Fifty-three (53) minutes East, One-hundred Sixty-six and Eighty-five One Hundredths (166.85) feet, North Seventy-nine (79) degrees Thirty-three (33) minutes East, Two-hundred Twenty-six and Five One Hundredths (226.05) feet, North Eighty-seven (87) degrees Zero (00) minutes East One-hundred Thirty-six and Thirteen One Hundredths (136.13) feet, North Seventy-five (75) degrees Thirty-five (35) minutes and Thirty (30) seconds East, Seventy-three and Ninety-seven One Hundredths (73.97) feet, North Eighty-two (82) degrees Forty-eight (48) minutes and Thirty (30) seconds East, Sixty-five and Eighty One Hundredths (65.80) feet, South Eighty-six (86) degrees Four (04) minutes East, One-hundred Thirty and Twelve One Hundredths (130.12) feet thence leaving the run of Spring Branch South Seventeen (17) degrees Forty-four (44) minutes West, One-thousand One-hundred Sixty-six and Seventy-eight One Hundredths (1,166.78) feet to a point; thence South Forty-seven (47) degrees Forty-four (44) minutes West, Four-hundred Seventy-eight (478.0) feet to a point, said point being at the intersection of the southern line of Greentree Road with the eastern line of Lennon Drive as shown on the map of Section I of the Greentree Subdivision recorded in Map Book 10, page 44; thence crossing Lennon Drive and continuing along said southern line of Greentree Road Nine-hundred Eighteen and Thirty-seven One Hundredths (918.37) feet to a point of curvature of a circular curve to the left (said curve having a radius of Nine-hundred Twenty-four and Ninety-three One Hundredths (924.93) feet and a tangent length of Two-hundred Two and Thirty-seven One Hundredths (202.37) feet); Thence along the arc of said curve Three-hundred Twelve and Thirty-six One Hundredths (312.36) feet to the end of the dedicated right-of-way of Greentree Road; thence continuing along said arc Eighty-six and Nine One Hundredths

(86.09) feet to a point of tangency; thence North Sixty-six (66) degrees Fifty-eight (58) minutes West, One-thousand Three-hundred Ninety-four and Nine One Hundredths (1,394.09) feet to a point; thence South Three (3) degrees Three (03) minutes and Thirty (30) seconds West, Seven-hundred Ninety-seven and Eighty One Hundredths (797.80) feet to an iron stake; thence North Eighty-six (86) degrees Fifty-six (56) minutes and Thirty (30) seconds West, Six-hundred Fifty-nine and Twenty-seven One Hundredths (659.27) feet to an iron stake; thence North Fourteen (14) degrees Ten (10) minutes West, Forty-eight and Forty-three One Hundredths (48.43) feet to an iron stake; thence North Thirteen (13) degrees Eighteen (18) minutes West, Four-hundred Thirteen and Twenty-seven One Hundredths (413.27) feet to an iron stake in the center of Poezolt Branch; thence meandering up the run of Poezolt Branch in a southerly direction about One-thousand Eight-hundred (1,800) feet to a point in the southern line of Lot 9 of the Poezolt Subdivision as recorded in Map Book 2, page 132, said point also being the northeastern corner of Lot 1 of the Division of the East Portion of the McClelland Estate as recorded in Map Book 4, page 80; thence South Seventy-two (72) degrees Twenty-seven (27) minutes and Thirty (30) seconds East, along the southern line of Lot 9 Seven-hundred Eleven and Forty-nine One Hundredths (711.49) feet to an old monument at the southwestern corner of Lot 9 of said Poezolt Subdivision; thence North Sixty-six (66) degrees Eleven (11) minutes East, along the northern lines of Lots 6, 7, and 7A of said Poezolt Subdivision Two-hundred Twelve and Thirty-two One Hundredths (212.32) feet to a concrete monument in the eastern line of said Subdivision; thence North Twenty-three (23) degrees Thirty-two (32) minutes West, One-hundred Eighty-two and Ninety-six One Hundredths (182.96) feet to a stone marked "DLG"; thence North Eighty (80) degrees Thirty-six (36) minutes East, Four-hundred Twenty-four and Sixty-four One Hundredths (424.64) feet to an old iron pipe between two stones (one marked "DLG" and one marked "GH", both having been plowed up); thence South Twenty-three (23) degrees Twenty-six (26) minutes East, Two-thousand Fifty-nine and Ninety-three One Hundredths (2,059.93) feet to an old iron pipe in the northern line of Market Street (a 100-foot right-of-way); thence North Eighty (80) degrees Fifty-three (53) minutes East, along said northern line of Market Street Four-hundred Eighty-five (485) feet, more or less, to a point in the eastern line of NewCentre Drive if the same was extended northwardly across Market Street; thence South Eight (8) degrees Fifty-seven (57) minutes East, along said eastern line of NewCentre Drive extended One-hundred (100) feet, more or less, to a point where the southern line of Market Street and the eastern line of NewCentre Drive intersect; thence South Eight (8) degrees Fifty-seven (57) minutes East, along said eastern line of NewCentre Drive (a 60-foot right-of-way) Three-hundred Forty-four and Thirteen One Hundredths (344.13) feet to a point; thence South Nine (9) degrees Twenty-six (26) minutes East a chord distance of Fifteen and Eight Tenths (15.8) feet to a point in the northern line of the Seaboard Coast Line Railroad Company's 130-foot right-of-way for their Newbern Line; thence North Sixty-seven (67) degrees Fifty-five (55) minutes East along said northern line of the railroad right-of-way Seven-hundred Fifty-four and Thirty-five One Hundredths (754.35) feet to a point; thence South Twenty-two (22) degrees Five (05) minutes East, One-hundred and Thirty (130.0) feet to a stone in the southern line of said railroad right-of-way; thence continuing South Twenty-two (22) degrees Five (05) minutes East, One-

thousand Forty-three and Five Tenths (1,043.5) feet to another stone; thence North Sixty-eight (68) degrees Nine (09) minutes East, One-hundred Fifty-four and Thirty-one One hundredths (154.31) feet to an iron pipe; thence South Twenty-two (22) degrees Twenty-two (22) minutes East, Two-hundred Ninety-eight (298.0) feet to an iron pipe; thence South Twenty-two (22) degrees Fifty-five (55) minutes West, Five-hundred Eighty-five and Ninety-five One Hundredths (585.95) feet to an iron pipe in the southern line of a 70-foot Carolina Power and Light Company right-of-way; thence South Fifty-five (55) degrees Forty-six (46) minutes East, along said southern line of the Power Company right-of-way Nine-hundred Thirty-seven and Eighty-three One Hundredths (937.83) feet to an iron pipe in the western right-of-way line of College Road (N. C. Highway 132) a 200-foot right-of-way; thence continuing South Fifty-Five (55) degrees Forty-six (46) minutes East, Two-hundred and Eight Tenths (200.8) feet to a point in the eastern line of said highway right-of-way; thence along said eastern highway right-of-way line in a Southwesterly direction Twenty-one and Six Tenths (21.6) feet, more or less, to a point; said point being the southwest corner of the Carolina Savings and Loan Company tract; thence South Seventy (70) degrees Fifty-nine (59) minutes East along the southern line of the Savings and Loan Company tract, Two-hundred (200.0) feet to the southeastern corner of said tract; thence North Twenty-seven (27) degrees Thirty-one (31) minutes East, along the eastern line of said tract Two-hundred (200.0) feet to a point in the southern line of Oriole Drive (a 60-foot right-of-way); thence South Seventy (70) degrees Fifty-nine (59) minutes East along said southern line of Oriole Drive Two-hundred Eighty-seven and Seventy-six One Hundredths (287.76) feet to a point, said point being the northwestern corner of Lot 2, Section 1A, College Acres Subdivision, as recorded in Map Book 8, page 79, New Hanover County Registry; thence South Nineteen (19) degrees One (01) minute West along the western lines of Lots 2 and 2A, Three-hundred (300.0) feet to a point at the southwestern corner of Lot 2A; thence South Seventy (70) degrees Fifty-nine (59) minutes East along the back lot lines of adjacent lots Three-hundred Seventy-two and Fifty Seven One Hundredths (372.57) feet to the southwestern corner of Lot 8A; thence South Fifty-eight (58) degrees Two (02) minutes East along the back lot lines of adjacent lots Five-hundred Sixty-four and Thirty-four One Hundredths (564.34) feet to the southeastern corner of Lot 16A; thence North Thirty-one (31) degrees Fifty-eight (58) minutes East, along the eastern line of Lot 16A One-hundred (100.0) feet to the southwestern corner of Lot 18; thence South Fifty-eight (58) degrees Two (02) minutes East along the back lot lines of adjacent lots Three-hundred Ninety-three and Seventy-seven One Hundredths (393.77) feet to the southeastern corner of Lot 22; thence South Twenty-two (22) degrees Twenty-three (23) minutes West along the back lot lines of adjacent lots Six-hundred Fifty-eight and Thirty-eight One Hundredths (658.38) feet to the southwestern corner of Lot 30; thence South Sixty-seven (67) degrees Thirty-seven (37) minutes East along the southern line of Lot 30, Two and Ninety-four One Hundredths (2.94) feet to the northwest corner of Lot 31; thence South Twenty-three (23) degrees Seven (07) minutes West, along the back lot lines of adjacent Lots One-thousand Two-hundred Sixty-three and Eighty-one One Hundredths (1,263.81) feet to a corner of Lot 46 of College Acres as recorded in Map Book 7, page 28; thence South Eighty-nine (89) degrees Twenty-eight (28) minutes West along the back lot lines of adjacent lots Three-Hundred Seventy-

nine and Twenty-seven One Hundredths (379.27) feet to the northeastern corner of Lot 34 of College Acres as recorded in Map Book 7, page 27; thence North Zero (0) degrees Thirty-two (32) minutes West along the eastern line of Lot 34-A One-hundred (100.00) feet to the northeastern corner of Lot 34-A; thence South Eighty-nine (89) degrees Twenty-eight (28) minutes West along the back lot lines of adjacent lots Nine-hundred Five and Sixty-seven One Hundredths (905.67) feet to the northeastern corner of Lot 15-A; thence North Fifty-six (56) degrees Forty-one (41) minutes West along the back lot lines of adjacent lots Six-hundred Fifty-two and One One Hundredths (652.01) feet to the northwestern corner of Lot 2-A; thence South Thirty-three (33) degrees Nineteen (19) minutes West along the western line of Lot 2-A One-hundred (100.0) feet to a point, said point being the southeastern corner of the Sutton-Council Furniture Company Tract; thence North Fifty-six (56) degrees Forty-one (41) minutes West along the southern line of said furniture company tract Four-hundred (400.0) feet to a point in the eastern right-of-way line of College Road (N. C. Highway No. 132); thence South Thirty-three (33) degrees Nineteen (19) minutes West along said eastern right-of-way line Two-hundred (200.0) feet to a point in the northern line of College Drive (a 60-foot right-of-way); thence South Fifty-six (56) degrees Forty-one (41) minutes East along said northern line One-hundred Seventy-five (175.0) feet to a point; thence South Thirty-three (33) degrees Nineteen (19) minutes West crossing College Drive right-of-way and along the eastern line of Bay Foods, Inc., tract, Two-hundred and Sixty (260.0) feet to a point in the northern property line of the University of North Carolina at Wilmington tract, also being the southern boundary of College Acres Subdivision as recorded in Map Book 7, page 27; thence South Fifty-six (56) degrees Forty-one (41) minutes East along said University northern line One-thousand Forty-seven and Six Tenths (1,047.6) feet to a concrete monument; thence continuing with said northern line of the University Tract, the same being the College Acres Subdivision southern line North Eighty-nine (89) degrees Twenty-seven (27) minutes East, Two-thousand One-hundred Seventy and Two Tenths (2,170.2) feet to a "DLG" stone at the southwestern corner of the now or formerly Marsden Bellamy, Jr., Tract; thence with the southern line of said Bellamy Tract South Sixty-seven (67) degrees Forty-eight (48) minutes East, Six-hundred Twenty-two and Eight Tenths (622.8) feet to a "DLG" stone; thence continuing with said Bellamy Tract North Twenty (20) degrees Thirty-three (33) minutes West One-hundred Three (103.0) feet to a "DLG" stone; thence continuing with said Bellamy Tract North Eighty-six (86) degrees Fifteen (15) minutes East Seven-hundred Ninety-two and Seven Tenths (792.7) feet to a "DLG" stone; thence with the eastern line of said Bellamy Tract North Nine (9) degrees Forty (40) minutes East Nine-hundred Fifty-four and One Tenth (954.1) feet to a "DLG" stone; thence continuing North Nine (9) degrees Forty (40) minutes East, Three (3.0) feet to the center line of Clear Run Branch and the southern line of the lots of College Acres as recorded in Map Book 7, page 28, thence down and with said branch and the southern line of College Acres as shown by maps recorded in Book 7, page 28, Book 9, page 26 and Book 9, page 29, eastwardly Two-thousand Eight-hundred and Fifty (2,850) feet, more or less, to the western line of College Acres as recorded in Map Book 9, page 30, said branch also shown and located by map by M. H. Lander, recorded in Map Book 7, page 18; thence with the western line of said College Acres, (Map Book 9, page 30) South Thirty-three (33) degrees Twenty (20)

minutes West Four (4.0) feet to a "DLG" stone; thence continuing with said western line South Thirty-three (33) degrees Twenty (20) minutes West, One-thousand Eight-hundred Fifteen and Seven Tenths (1,815.7) feet to a "DLG" stone; thence with the western line of the now or formerly Jack Yarboro Tract and the western line of Breezewood (Map Book 8, page 11) South Thirty-six (36) degrees Fifty-five (55) minutes West, Two-thousand Five-hundred Eighty-two and Thirty One Hundredths (2,582.30) feet to a concrete monument; thence continuing South Thirty-six (36) degrees Fifty-five (55) minutes West, Three-hundred Fifty-six and Seventy-one One Hundredths (356.71) feet to a point at the northwestern corner of a tract conveyed to the Trustees of Wilmington College by E. Warren Edwards and wife (Book 669, page 28); thence South Fifty-three (53) degrees Five (05) minutes East One (1.00) foot to a point in the western line of Rose Avenue; thence with said western line of Rose Avenue South Thirty-six (36) degrees Fifty-five (55) minutes West, One-thousand Six-hundred Sixteen and Sixty-nine One Hundredths (1,616.69) feet to a point; thence North Fifty-three (53) degrees Five (05) minutes West, One (1.00) foot to a point in the original line shown by Map Book 7, page 18; thence with said line South Thirty-six (36) degrees Fifty-five (55) minutes West One-hundred Forty (140.0) feet to a "DLG" stone in the northern line of Eastwood Heights; thence with the southern line of the tract recorded in Map Book 7, page 18, North Fifty-three (53) degrees Fifteen (15) minutes West, Two-thousand Nine-hundred Sixty-eight and One Tenth (2,968.1) feet to a "DLG" stone, the previous course having a One (1.0) foot offset at Oakcrest Drive and Oak Leaf Drive as described in Deed Book 669, page 28, which covers two of the One (1.0) foot reserved strips as shown on said Map Book 7, page 18; thence North Eighty-five (85) degrees Thirty (30) minutes West, Seven-hundred Ninety-eight (798.0) feet to a concrete monument; thence North Sixty (60) degrees Nine (09) minutes West Eight-hundred Sixty-three and Three Tenths (863.3) feet to an iron pipe; thence departing from said tract as shown by Map Book 7, page 18, and with the eastern line of a tract conveyed by Raiford G. Trask to the State of North Carolina by Deed Book 863, page 30, South Four (4) degrees Twenty-nine (29) minutes West, Seven-hundred Ninety-one and Seventeen One Hundredths (791.17) feet to a brown stone; thence in accordance with the Annexation Map recorded in Map Book 14, page 22, South Fifty-three (53) degrees Forty-seven (47) minutes East, Seven-hundred Three and Thirty-three One Hundredths (703.33) feet to an iron pipe; thence with the rear line of properties fronting on Dixie Avenue South Twenty-five (25) degrees Thirty-eight (38) minutes West, One-thousand Three-hundred Sixty-four and Ten One Hundredths (1,364.10) feet to a point in the southern line of Old Meares Road (a 30-foot right-of-way); thence with said southern line of Old Meares Road North Fifty-nine (59) degrees Forty-two (42) minutes and Fifteen (15) seconds West, Eight-hundred Twenty-five and Fifty-nine One Hundredths (825.59) feet to a turn in said southern line; thence continuing with said southern line North Forty-one (41) degrees Twenty-two (22) minutes and Forty-five (45) seconds West, Two-hundred Fifty-two and Seventy-three One Hundredths (252.73) feet to a point in the eastern line of MacMillan Avenue; thence continuing across MacMillan Avenue and with the southern line of Old Meares Road, said Meares Road right-of-way becoming 60-feet in width at this point, North Forty-one (41) degrees Twenty-two (22) minutes and Forty-five (45) seconds West, One-hundred Fourteen and Twenty-nine One Hundredths (114.29) feet to another

turn in said southern line; thence continuing along said southern line of Old Meares Road, North Fifty-two (52) degeees Twenty-eight (28) minutes and Forty-five (45) seconds West, Four-hundred Forty-two and Eighty-four One Hundredths (442.84) feet to another turn in said southern line; thence continuing along said southern line North Fifty-eight (58) degrees Four (04) minutes West, Twenty-one and Eight One Hundredths (21.08) feet to a point; thence leaving said southern line of Old Meares Road North Twenty-four (24) degrees One (01) minute East, Four-hundred Ten and Forty-nine One Hundredths (410.49) feet along the eastern line of the K-mart Tract to a point; thence crossing a portion of said K-Mart Tract and extending along the division line between the K-Mart Tract and the MacMillan-Buick Company Tract North Fifty-eight degrees Four (04) minutes West, Seven-hundred Fifty (750.0) feet to a point in the eastern right-of-way line of College Road (N. C. Highway 132); thence along said eastern line of the Highway right-of-way on a curve having a chord bearing South Twenty-three (23) degrees Eight (08) minutes and Thirty (30) seconds West, One-hundred Ninety-two and Forty-seven One Hundredths (192.47) feet to a point on the curve; thence South Fifty-nine (59) degrees Forty-one (41) minutes East, Thirty and Seven Tenths (30.7) feet to a point which is Two hundred Ninety-seven (297) feet east of the centerline tangent of said Highway right-of-way; thence parallel to and Two-hundred Ninety-seven (297) feet East of said centerline tangent South Seven (7) degrees Nineteen (19) minutes West, Four-hundred Sixty-three and Seventy One Hundredths (463.70) feet to a point, said point being Two-hundred (200.0) feet North of the northern line of Cedar Avenue (a 33-foot right-of-way); thence parallel with and two-hundred (200.0) feet North of said northern line of Cedar Avenue North Eighty-two (82) degrees Forty-one (41) minutes West Sixty-six (66.0) feet to a point, said point being Two-hundred Thirty-one (231.0) feet east of the centerline tangent of College Road (N. C. Highway 132); thence parallel to and Two-hundred Thirty-one (231.0) feet East of the centerline of College Road (N. C. Highway 132) South Seven (7) degrees Nineteen (19) minutes West, Nine-hundred Twenty-six (926.0) feet to a point in the northern line of Maple Avenue (a 33-foot right-of-way), said point being the northwest corner of Lot 99 of the Winter Park Gardens Subdivision as recorded in Map Book 3, page 38, and re-recorded in Map Book 14, page 44; thence along said southern line of Maple Avenue South Eighty-two (82) degrees Forty-one (41) minutes East Sixty-six (66.0) feet to the Northeast corner of said lot 99; thence along the eastern line of said Lot 99, South Seven (7) degrees Nineteen (19) minutes West, Three-hundred and Thirty (330.0) feet to a point in the old northern line of Wrightsville Avenue, said point being Twenty-five and Ninety-five One Hundredths (25.95) feet north of the centerline of Wrightsville Avenue; thence along said old northern line of Wrightsville Avenue, North Eighty-two (82) degrees Forty-one (41) minutes West, Sixty-six (66.0) feet to the southwestern corner of Lot 99; thence parallel with and Two-hundred Thirty-one (231.0) feet East of the centerline of College Road (N. C. Highway 132), South Seven (7) degrees Nineteen (19) minutes West, Six-hundred Fifty-six and Ninety-two One Hundredths (656.92) feet to a point Fifty (50.0) feet north of the northern line of Peachtree Avenue (a 33-foot right-of-way); thence parallel with and Fifty (50.0) feet north of said northern line, North Eighty-two (82) degrees Forty-one (41) minutes West, Thirty-three (33.0) feet to a point One-hundred Ninety-eight (198.0) feet east of the centerline of College Road (N. C. Highway 132); thence

parallel with and One-hundred Ninety-eight (198.0) feet east of said centerline of College Road (N. C. Highway 132), South Seven (7) degrees Nineteen (19) minutes West, One-thousand Three-hundred Fifty-three and Thirty-seven One Hundredths (1,353.37) feet to a point in the back line of Lot 3, Piney Woods, Section F Subdivision as recorded in Map Book 5, page 71; thence along the back line of Lot 3 South Fifty (50) degrees Twenty-three (23) minutes West, Eighty-five and Ninety-three One Hundredths (85.93) feet to the northwestern corner of Lot 3; thence along the division line between Lots 2 and 3, South Thirty-nine (39) degrees Thirty-seven (37) minutes East, Two-hundred (200.0) feet to a point in the northern line of Parkway Drive (a 60-foot right-of-way); thence along said northern line of Parkway Drive, South Fifty (50) degrees Twenty-three (23) minutes West, One-hundred (100.0) feet to the southwestern corner of Lot 2; thence crossing Parkway Drive and beyond along an extension of the western line of said Lot 2, South Thirty-nine (39) degrees Thirty-seven (37) minutes East, Seventy and Fifty-five One Hundredths (70.55) feet to a point Two-hundred and Fifty (250.00) feet east of the center line of College Road (N. C. Highway 132); thence parallel with and Two-hundred and Fifty (250.0) feet east of said centerline, South Seven (7) degrees Nineteen (19) minutes West, One-thousand Eight-hundred Thirty-one and Twenty-three One Hundredths (1,831.23) feet to a point in the back lot line of Lot 2, Long Leaf Hills, Section 1, Subdivision as recorded in Map Book 5, page 56; thence along the back lot lines of Lots 2 and 1, South Fifty-two (52) degrees Fifty-four (54) minutes West, One-hundred Sixty-six and Seventy-two One Hundredths (166.72) feet to the northwest corner of Lot 1; thence along the western line of Lot 1, South Thirty-seven (37) degrees Six (06) minutes East, Two-hundred Five and Forty-six One Hundredths (205.46) feet to a point which is Seventy-nine and Fifty-four One Hundredths (79.54) feet North of the centerline of Long Leaf Hills Drive; thence parallel with and Two-hundred Eighty-three and Seven Tenths (283.7) feet East of the centerline of College Road (N. C. Highway 132), South Seven (7) degrees Nineteen (19) minutes West, One-thousand Two-hundred Ninety-four and Forty-six One Hundredths (1,294.46) feet to an iron pipe, said pipe being a common corner between Lots 204 and 203 of Long Leaf Hills, Section 6, Subdivision as recorded in Map Book 7, page 43; thence along the back lot line of Lot 203, South Eighty-six (86) degrees Twenty-two (22) minutes West, One-hundred Two and Sixty-two One Hundredths (102.62) feet to a common corner between Lots 202 and 203; thence along the back lot line of Lot 202, One-hundred (100.0) feet to a point in the eastern right-of-way line of College Road (N. C. Highway 132, a 200-foot right-of-way); thence along said eastern line of College Road (N. C. Highway 132), South Ten (10) degrees Forty-four (44) minutes and Thirty (30) seconds West, Nine-hundred Fifty-two and Eighty-eight One Hundredths (952.88) feet to an old pipe at the southwestern corner of Lot 221, Long Leaf Hills, Section 6, Subdivision, said point also being the northwestern corner of the YWCA Tract; thence along the boundary of the YWCA Tract the following courses and distances: South Seventy-nine (79) degrees Eight (08) minutes East Four-hundred Eighty-two and Twenty-two One Hundredths (482.22) feet; thence North Fifty-seven (57) degrees Ten (10) minutes East, Three-hundred Fifty-five and Sixty-six One Hundredths (355.66) feet to an old pipe; thence South Thirty-two (32) degrees Fifty (50) minutes East, One-hundred Eighty (180.0) feet to a pipe in the northwestern line of Cascade Road; thence with the northwestern line of Cascade Road, South Fifty-

seven (57) degrees Ten (10) minutes West, Eighty-nine and Fifty-six One Hundredths (89.56) feet to an iron pipe; thence South Thirty-two (32) degrees Fifty (50) minutes East, Four-hundred Ninety-six (496.0) feet to the new run of Watson's Branch; thence with the new run of Watson's Branch, an agreed line, South Eighty-three (83) degrees Thirty-nine (39) minutes and Thirty (30) seconds West, Two-hundred Five and Nine Tenths (205.9) feet; thence North Seventy-five (75) degrees Twenty-two (22) minutes and Thirty (30) seconds West, One-hundred Three and Nine Tenths (103.9) feet; thence North Eighty (80) degrees Forty-three (43) minutes and Thirty (30) seconds West, Fifty-nine and Eight Tenths (59.8) feet; thence North Thirty-seven (37) degrees Twenty-five (25) minutes and Thirty (30) seconds West, Seventy and Thirteen One Hundredths (70.13) feet; thence North Eight (80) degrees Fifty-five (55) minutes and Thirty (30) seconds West, Two-hundred Three and Four Tenths (203.4) feet; thence North Seventy (70) degrees Fifty-five (55) minutes and Thirty (30) seconds West, One-hundred Eighty-five and Eighty-four One Hundredths (185.84) feet; thence South Sixty-five (65) degrees Fifty-five (55) minutes West, One-hundred Six and Twenty-three One Hundredths (106.23) feet; thence South Thirty-nine (39) degrees Seven (07) minutes and Thirty (30) seconds West, Sixty-five and Four Tenths (65.4) feet; thence South Eleven (11) degrees Thirteen (13) minutes and Thirty (30) seconds West, One-hundred and Eight Tenths (100.8) feet; thence South Thirty-four (34) degrees Fifty-three (53) minutes and Thirty (30) seconds West, Fifty-eight and Twenty-two One Hundredths (58.22) feet; thence South Sixty-two (62) degrees Thirty-six (36) minutes West, One-hundred Thirty-six and Four Tenths (136.4) feet; thence South Thirty-three (33) degrees Eleven (11) minutes West, One-hundred Sixty-three and Three Tenths (163.3) feet; thence South Twenty-three (23) degrees Twenty-four (24) minutes and Thirty (30) seconds West, One-hundred Twenty-eight and Four tenths (128.4) feet; thence South Fifty-five (55) degrees Fifty (50) minutes West, Four and Sixty-four One Hundredths (4.64) feet to the intersection of the run of Watson's Branch with the eastern right-of-way line of South College Road (N. C. Highway 132); thence at right angles to said right-of-way line North Seventy-nine (79) degrees Eight (08) minutes West, Two-hundred (200) feet to the western right-of-way line of said South College Road (N. C. Highway 132); thence North Ten (10) degrees Fifty-two (52) minutes East, Two-hundred Ten and Twenty-five One Hundredths (210.25) feet along said western right-of-way line of South College Road (N. C. Highway 132) to a point in the centerline of West Cascade Road; thence continuing along said western line North Ten (10) degrees Fifty-two (52) minutes East, Four-hundred Forty (440.0) feet to a point; thence North Seventy-nine (79) degrees Fifteen (15) minutes and Thirty (30) seconds West, Three-hundred Eighty-seven and Ninety-five One Hundredths (387.95) feet to a point; thence North Forty-seven (47) degrees Thirty-five (35) minutes West, Six-hundred Seventy-six and Ninety-two One Hundredths (676.92) feet to a point where the northern line of Holly Tree Road intersects the southeastern line of Red Bird Road (both roads being private non-dedicated roads at this time) if the same was extended northwardly; thence along said southeastern line South Forty-two (42) degrees Twenty-two (22) minutes and Thirty (30) seconds West, Three-hundred Ninety-five and Sixty-nine One Hundredths (395.69) feet to a point of curvature of a circular curve to the right, said curve having a radius of Two-hundred Fifty-five and Ninety-one One Hundredths (255.91) feet and a deflection angle of Sixty-

three (63) degrees and Thirty-four (34) minutes; thence along said curve Two-hundred Eighty-three and Ninety-two One Hundredths (283.92) feet to a point of tangency, said arc having a chord with a bearing of South Seventy-four (74) degrees Nine (09) minutes West and a length of Two-hundred Sixty-nine and Fifty-nine One Hundredths (269.59) feet; thence from said point of tangency and continuing along said southern right-of-way line of Red Bird Road, North Seventy-four (74) degrees Three (03) minutes and Thirty (30) seconds West, One-hundred Fifty-four (154.0) feet to a point of curvature of a curve to the left, said point also being in the boundary line of Lot 283, Long Leaf Hills, Section 7, Subdivision as recorded in Map Book 8, page 67; thence crossing Red Bird Road at right angles North Fifteen (15) degrees Fifty-six (56) minutes and Thirty (30) seconds East, Sixty (60.0) feet to a point at the point of curvature of a curve to the left in the northern line of Red Bird Road; thence along the arc of said curve Seventy-five and Sixty-one One Hundredths (75.61) feet; said curve having a radius of One-hundred Fifty-one and Fourteen One Hundredths (151.14) feet and a deflection angle of Sixty-three (63) degrees Thirty-one (31) minutes and Thirty (30) seconds, the above arc being further defined as having a chord bearing North Eighty-eight (88) degrees Twenty-four (24) minutes West with a length of Seventy-four and Ninety-six One Hundredths (74.96) feet, said point being the southeastern corner of Lot 284 of said Subdivision; thence along the lot line of said lot, North Fourteen (14) degrees Forty-five (45) minutes West, One-hundred Sixty-six and Seventy-eight One Hundredths (166.78) feet to another corner of said lot; thence continuing along said lot line South Seventy-five (75) degrees Fifteen (15) minutes West, Forty-nine and Fifty-eight One Hundredths (49.58) feet to the southeastern corner of Lot 285 of said Subdivision; thence along the back lot line of Lot 285 North Forty-three (43) degrees Thirty (30) minutes West, One-hundred Forty and Thirty-six One Hundredths (140.36) feet to a point in the southern line of Robin Road; thence crossing said right-of-way North Thirty-eight (38) degrees Seven (07) minutes West, Sixty and Eighty-two One Hundredths (60.82) feet to a point in the northern line of said right-of way, said point also being the southeastern corner of Lot 286 of said Subdivision; thence along the back lot line of said Lot 286, North Sixty-seven (67) degrees Thirty-eight (38) minutes West, One-hundred Twenty-two and Forty-six One Hundredths (122.46) feet to the southeastern corner of Lot 287; thence along the back lot lines of Lots 287 and 288, North Zero (0) degrees Fifty-eight (58) minutes East, Two-hundred Six and Eighty-nine One Hundredths (206.89) feet to the southeastern corner of Lot 289, said point also being Two-hundred (200.0) feet south of the southern right-of-way line of Shipyard Boulevard (a 130-foot right-of-way); thence along a line which is Two-hundred (200.0) feet south of said southern line of Shipyard Boulevard, South Eighty (80) degrees Ten (10) minutes and Thirty (30) seconds West, Three-thousand One-hundred and Twenty-eight (3,128) feet, more or less, to a point which is One-hundred Seventy-seven and Forty-five One Hundredths (177.45) feet west of the southwestern line of Longstreet Drive as measured perpendicular thereto; thence parallel to and One-hundred Seventy-seven and Forty-five One Hundredths (177.45) feet west of said southwestern line of Longstreet Drive, South Thirty-seven (37) degrees Fifteen (15) minutes East, Two-hundred Sixteen and Eighty-three One Hundredths (216.83) feet to a point; thence North Fifty-two (52) degrees Forty-five (45) minutes East, One-hundred Seventy-seven and Forty-five One Hundredths (177.45) feet to a point

in the said southwestern line of Longstreet Drive; thence South Thirty-seven (37) degrees Fifteen (15) minutes East, along the southwestern line of Longstreet Drive Two-hundred Thirty-two and Two One Hundredths (232.02) feet to a point that is North Thirty-seven (37) degrees Fifteen (15) minutes West along the southwestern line of Longstreet Drive Four-hundred Twenty-six and Six Tenths (426.6) feet from its intersection with the northwestern line of Stonewall Jackson Drive; thence South Forty-six (46) degrees Twenty (20) minutes West and parallel with Stonewall Jackson Drive One-thousand Seven-hundred Eighty-eight and Eighty-seven One Hundredths (1,788.87) feet to a point in the northeastern line of Buckner Drive (if same were extended northwestwardly); thence North Forty-three (43) degrees Forty (40) minutes West along said extended northeastern line of Buckner Drive One-hundred Ninety-two (192.0) feet; thence South Forty-six (46) degrees Twenty (20) minutes West and parallel with Stonewall Jackson Drive, One-thousand Eight-hundred Thirty-two and Forty-one One Hundredths (1,832.41) feet to a point in the southwestern line of Semmes Drive (if same were extended northwestwardly); thence North Forty-three (43) degrees Forty (40) minutes West along the extended southwestern line of Semmes Drive, Six-hundred (600.0) feet; thence North Forty-six (46) degrees Twenty (20) minutes East and parallel with Stonewall Jackson Drive, One-thousand Seven-hundred Eighty-one and Fifty-one One Hundredths (1,781.51) feet; thence North Nine (9) degrees Forty-seven (47) minutes West, Six-hundred Eighty-five (685.0) feet to a point which is Two-hundred (200.0) feet south of the southern right-of-way line of Shipyard Boulevard; thence parallel with and Two-hundred (200.0) feet south of said southern right-of-way line of Shipyard Boulevard, South Eighty (80) degrees Thirteen (13) minutes West, Three-thousand One-hundred Twenty-six (3,126.0) feet, more or less, to a point in the eastern line of Block 13 of the Hanover Heights Subdivision as recorded in Map Book 5, page 65, said point being in the extended eastern line of Lots 1 and 2 of Block 14 of the aforementioned map, if said line were extended northwardly; running thence with said line South Twelve (12) degrees Fifty-nine (59) minutes East, Four-hundred Sixty-three and Twenty-five One Hundredths (463.25) feet to a point; running thence with the eastern line of aforementioned Block 14, South Twenty-six (26) degrees Fifty-four minutes East, Six-hundred Ten and Five One Hundredths (610.05) feet to a point; running thence with another eastern line of Block 14 and beyond, South Fifteen (15) degrees Five (05) minutes East Two-hundred Thirty-one and Seven Tenths (231.7) feet to the centerline of Maultsby Drive; running thence along said centerline North Seventy-four (74) degrees Fifty-five (55) minutes East, Twenty-seven and Seventy-eight One Hundredths (27.78) feet to a point in the extended eastern line of Lot 1 of Block 15 of said Subdivision if said line were extended northwardly; running thence with the said eastern line South Fifteen (15) degrees Fifteen (15) minutes East, Two-hundred Twenty-nine and Forty-five One Hundredths (229.45) feet to a point; running thence with another eastern line of Block 15 and beyond, South One (1) degree Fifty-five (55) minutes West, Two-hundred Forty-two and Seventy-five One Hundredths (242.75) feet to a point in the centerline of Lillington Drive (formerly Clarendon Drive): running thence with said centerline South Seventy-four (74) degrees Fifty-nine (59) minutes West, Eight and Forty-two One Hundredths (8.42) feet to a point in the extended eastern line of Lot 5 of Block 16 of said Subdivision, if said line were extended

northwardly; running thence with said line South Fifteen (15) degrees One (01) minute East, Two-hundred Twenty-four and Nine Tenths (224.9) feet to the southeastern corner of said Lot 5; running thence with the southern line of said lot and beyond, South Seventy-five (75) degrees Fifty (50) minutes East, One-hundred Fifty-seven and Two Tenths (157.2) feet to the northeastern corner of Lot 3 of said Block 16; running thence with an eastern line of said Block 16 and beyond, South Twenty-seven (27) degrees Nineteen (19) minutes East, Four-hundred Fifty and Eight Tenths (450.8) feet to a point in the northern line of the Newkirk Tract (formerly Styne Tract of land); running thence with said northern line the following courses and distances: South Seventy-five (75) degrees Eleven (11) minutes West, Two-hundred Twenty-four and Fifteen One Hundredths (224.15) feet; North Twenty-seven (27) degrees Twenty-One (21) minutes West, Eleven and Forty-one One Hundredths (11.41) feet; South Seventy-four (74) degrees Thirty-seven (37) minutes West, Two-hundred Sixty-three and Seventy-five One Hundredths (263.75) feet; South Fifty-three (53) degrees Fifteen (15) minutes West, Four-hundred Sixty and Six Tenths (460.6) feet; North Thirty-six (36) degrees Forty-five (45) minutes West, One-hundred Eighty and Twelve One Hundredths (180.12) feet; South Seventy-four (74) degrees Thirty-six (36) minutes West Sixty-four and Forty-two One Hundredths (64.42) feet; North Thirty-six (36) degrees Forty-five (45) minutes West, One-hundred Sixty-one and Fifty-five One Hundredths (161.55) feet; South Seventy-one (71) degrees Twenty (20) minutes West, Three-hundred Seventy-five and Twenty-five One Hundredths (375.25) feet; South Eighty-nine (89) degrees Fifteen (15) minutes West, Six-hundred Seventy-eight and Fifty-five One Hundredths (678.55) feet; North Twenty-five (25) degrees Twenty-one (21) minutes West, Fifty-one and Six Tenths (51.6) feet and South Sixty-four (64) degrees Thirty-two (32) minutes West, One-hundred Ninety-nine and Eight Tenths (199.8) feet to a point, the southwestern corner of Lot 1, Block 4 according to a map in Map Book 5 on page 54 of the New Hanover County Registry; running thence North Twenty-five (25) degrees Thirty-eight (38) minutes West, Fifty (50.0) feet to a point, the extended southern line of Block 5 according to said map, if said line were extended eastwardly; running thence with said line and beyond, South Sixty-four (64) degrees Thirty (30) minutes West, One-thousand One-hundred Twenty and One Tenths (1,120.1) feet to a point, said point being One-hundred Fifty (150.0) feet westwardly from the centerline of U.S. Highway No. 421 when measured perpendicular to said centerline; running thence parallel to said centerline of U. S. Highway No. 421, North Twenty-five (25) degrees Thirty-one (31) minutes West, One-thousand Five-hundred Sixty-five and Eighty-three One Hundredths (1,565.83) feet to a point located Fifty (50) feet South of the south line of Marion Drive; thence Westwardly along a line parallel to and Fifty (50) feet south of the southern line of Marion Drive, South Eighty-nine (89) degrees Twenty-one (21) minutes West, Five-hundred Fifty-four and Twenty-four One Hundredths (554.24) feet to a point in the western property line of Hanover Mills; thence South Zero (0) degrees Thirty-nine (39) minutes East, One-hundred and Fifty (150) feet to a point Two-hundred (200) feet south of the southern property line of Marion Drive; thence Westwardly along a line parallel to and Two-hundred (200) feet south of the southern line of Marion Drive, South Eighty-nine (89) degrees Twenty-one (21) minutes West, Seven-hundred Nine and Twenty One Hundredths (709.20) feet to a point in the property line of Long Leaf Homes

(formerly Maffitt Village); thence South One (1) degree Fifty-four (54) minutes East along the said property line One-thousand Thirty-two and Ninety-six One Hundredths (1.032.96) feet to a stone in the north property line of the Babcock and Wilcox Tract; thence North Eighty-eight (88) degrees Six (06) minutes West, One-thousand One-hundred and Sixty-nine and Three Tenths (1,169.3) feet along the said Babcock and Wilcox Tract to a stone; thence North Eighty-seven (87) degrees Fifty-seven (57) minutes West, Three-hundred Twenty-three and Five Tenths (323.5) feet to a stone in the east property line of the J. C. Roe School; thence along the said school property line, South Zero (0) degrees Fifty-three (53) minutes East, Two-hundred Fifty-five and Eleven One Hundredths (255.11) feet to a stone; thence South Eighty-nine (89) degrees Seven (07) minutes West, Five-hundred Fifty-three (553.0) feet to a point Fifty (50) feet west of the west property line of Worth Drive; thence parallel to the said west line of Worth Drive, North Zero (0) degrees Fifty-one (51) minutes West, Two-hundred Eighty-two and Seventy-three One Hundredths (282.73) feet to the southern line of the Belmont Subdivision; thence along the said southern line of Belmont Subdivision North Eighty-seven (87) degrees Fifty-nine (59) minutes West, Two-hundred Twenty-eight and Fifty-nine One Hundredths (228.59) feet to the eastern line of the Atlantic Refining Company; thence North Fifteen (15) degrees Fifteen (15) minutes West, Five-hundred Fifty-five and Fifty One Hundredths (555.50) feet to a monument; thence North Eighty-eight (88) degrees Forty-six (46) minutes West, Fifty-eight (58.0) feet to a stone in the southeastern corner of the Phillips Petroleum Company Tract, and continuing on the same bearing Twenty-one and Ninety-four One Hundredths (21.94) feet to a point in the southern line of the said Phillips Tract; thence North Zero (0) degrees Twenty-four (24) minutes West parallel to and Fifty (50) feet west of the west line of Worth Drive extended, One-thousand Seven-hundred Eighty-four and Forty-one One Hundredths (1,784.41) feet to a point Fifty (50) feet south of the southern line of Shipyard Boulevard; thence parallel to and Fifty (50) feet south of Shipyard Boulevard, South Eighty-nine (89) degrees Thirty-six (36) minutes West, One-thousand One-hundred Forty and Thirteen One Hundredths (1,140.13) feet to the western right-of-way of Burnett Boulevard; thence Northwardly along the western line of Burnett Boulevard North Twenty-three (23) degrees Twenty-four (24) minutes East, Ninety-one and Sixty One Hundredths (91.60) feet to a point, said point also being the northeastern corner of the Texaco Terminal Property; running thence with the northern line of said Texaco Property, South Sixty (60) degrees Forty-two (42) minutes West, Three-hundred Seventy-three and Fifty-nine One Hundredths (373.59) feet; thence continuing with said northern line, North Seventy-six (76) degrees Thirty-two (32) minutes West, One-thousand Two-hundred Thirty-eight (1,238.0) feet to a concrete monument on the East bank of the Cape Fear River; thence continuing with said northern line North Eighty-five (85) degrees Fifty-five (55) minutes West, Six-hundred and Thirty (630.0) feet to a point in the eastern harbor line of the Cape Fear River; thence along said eastern Harbor Line North Four (4) degrees Five (05) minutes East, One-thousand Seven-hundred Forty-five and Eight Tenths (1,745.8) feet to a point H-(-2); thence continuing along said Harbor Line North Five (5) degrees Fifty-nine (59) minutes and Forty (40) seconds West, Two-thousand Eight-hundred Eighty-eight and Eight One Hundredths (2,888.08) feet to point H-(-1); thence continuing along said Harbor

Line, North Eleven (11) degrees Seventeen (17) minutes and Fifty (50) seconds East, Two-thousand Nine-hundred Seventy-one and Eighteen One Hundredths (2,971.18) feet to point H-1; thence continuing along said Harbor Line North Eleven (11) degrees Seventeen (17) minutes and Fifty (50) seconds East, Five-thousand Three-hundred Twenty-four and Twenty-four One Hundredths (5,324.24) feet to point H-2; thence continuing along said Harbor Line, North Sixteen (16) degrees Fifty-two (52) minutes and Forty (40) seconds East, One-thousand Two-hundred Ninety-one and Sixty-four (64) One Hundredths (1,291.64) feet to point H-3; thence continuing along said Harbor Line North Fifteen (15) degrees Thirty-one (31) minutes and Thirty (30) seconds East, Two-hundred Twenty-four and Eighteen One Hundredths (224.18) feet to point H-4; thence continuing along said Harbor Line North Three (3) degrees Fifteen (15) minutes and Thirty (30) seconds East, Two-hundred Twenty-eight and Thirty-seven One Hundredths (228.37) feet to point H-5; thence continuing along said Harbor Line North Zero (0) degrees Fifty-seven (57) minutes and Fifty (50) seconds West, Four-hundred Seventy-six and Six One Hundredths (476.06) feet to point H-6; thence continuing along said Harbor Line North Five (05) degrees Twenty-nine (29) minutes and Twenty (20) seconds West, Four-hundred Ninety-one and Twenty-five One Hundredths (491.25) feet to point H-7; thence continuing along said Harbor Line North Ten (10) degrees Forty (40) minutes and Fifty (50) seconds West, Four-hundred Ten and Ten One Hundredths (410.10) feet to point H-8, the point of BEGINNING. All references to Map Book and Page numbers in this description refer to the New Hanover County Registry. It is further noted that bearings used in this description are composites from several sources and the location of lines relative to street lines, property lines, etc., should take precedent over the bearings used where there is a conflict.

AREA No. 2 - SATELLITE AREA

BEGINNING at a concrete monument in the western right-of-way line of U. S. Highway No. 421 (100-feet in width at this point), said point lying South Twenty-two (22) degrees Thirty-eight (38) minutes East, Six-thousand One-hundred Forty-five and Sixty-seven One Hundredths (6,145.67) feet from the point of intersection of said right-of-way line with the southern City Limits Line described in Area No. 1 above, running thence from said beginning point in an easterly direction and perpendicular with said right-of-way line One-hundred (100.0) feet to a point in the eastern right-of-way line of U. S. Highway 421; thence along said eastern line in a southerly direction (said right-of-way increasing in width to 160 feet at the end of the first curve to the left) Four-thousand Seven-hundred Fifty (4,750.0) feet, more or less to a 3-inch iron pipe in the centerline of Barnard's Creek; thence with and along the centerline of Barnard's Creek and Doctor's Branch as they run generally in a Northeastwardly direction the following courses and distances: North Forty-two (42) degrees Forty-two (42) minutes East, Forty-one and Forty-nine One Hundredths (41.49) feet, North Sixty (60) degrees Twenty (20) minutes East, Eighty-five (85.00) feet, North Twenty-seven (27) degrees Forty-three (43) minutes East, Forty-four (44.00) feet, North Sixty (60) degrees Thirty-two (32) minutes East, Forty-one (41.00) feet, North Three (03) degrees Fifteen (15) minutes East Twenty-seven (27.00) feet, North Forty-two (42) degrees Thirty-four (34) minutes West, Thirty-five (35.00) feet, North Twenty-six (26) degrees

Seventeen (17) minutes East, One-hundred and One (101.00) feet, North Eighty-eight (88) degrees Twenty-four (24) minutes East, Forty-five (45.00) feet, North Seven (07) degrees Twenty-one (21) minutes West, Seventy-two (72.00) feet, North Eighteen (18) degrees Thirty-seven (37) minutes East, One-hundred Twenty-eight (128.00) feet, North Sixteen (16) degrees Forty-three (43) minutes West, One-hundred (100.00) feet, North Three (03) degrees Twenty-one (21) minutes East, Ninety (90.00) feet, North Twenty-three (23) degrees Fourteen (14) minutes West, Ninety (90.00) feet, North Two (02) degrees Forty-eight (48) minutes West One-hundred Sixty-seven (167.00) feet, North Nineteen (19) degrees Twenty-six (26) minutes East One-hundred Eighty-three (183.00) feet, North Seven (07) degrees Fourteen (14) minutes East Two-hundred and One (201.00) feet, North Sixty-one (61) degrees Thirty-four (34) minutes East One-hundred and Eight (108.00) feet, North Twelve (12) degrees Six (06) minutes East, Ninety-four (94.00) feet, North Sixty-seven (67) degrees Thirteen (13) minutes East, One-hundred Eleven (111.00) feet, North Forty-three (43) degrees Forty-nine (49) minutes East, Three-hundred Twenty-three (323.00) feet, North Sixty-six (66) degrees Zero (00) minutes East, One-hundred and Twenty-six (126.00) feet, North Twenty-four (24) degrees Seven (07) minutes West, One-hundred and Ninety-eight (198.00) feet, North Sixty-three (63) degrees Forty-eight (48) minutes West Sixty-four (64.00) feet, North One (01) degree Thirty-four (34) minutes West, Ninety (90.00) feet, North Forty-one (41) degrees fifty-four (54) minutes West, Eighty-four (84.00) feet, North Seven (07) degrees Seven (07) minutes East, Two-hundred Three and Ninety-seven One Hundredths (203.97) feet, North Forty (40) degrees Thirty (30) minutes East, One-hundred Forty-five (145.00) feet, North Twelve (12) degrees Forty-six (46) minutes West, One-hundred Fifty-one (151.00) feet, North Fourteen (14) degrees Five (05) minutes East, One-hundred Fifty-eight (158.00) feet, North Eight (08) degrees Zero (00) minutes West, Two-hundred (200.00) feet, North Twenty-six (26) degrees Forty-three (43) minutes West, Three-hundred and Four (304.00) feet, North Fifteen (15) degrees Fifty-two (52) minutes East Three-hundred Twenty-six (326.00) feet, North Seventy-nine (79) degrees Five (05) minutes East, Four-hundred Forty-one (441.00) feet, South sixty-seven (67) degrees Six (06) minutes East, One-hundred and Seventeen (117.00) feet, North Eighty-four (84) degrees Six (06) minutes East, Fifty-six (56.00) feet, South Forty-two (42) degrees Fifty-two (52) minutes East, Sixty-nine (69.00) feet, North Seventy-four (74) degrees Forty-six (46) minutes East, Two-hundred Forty-two (242.00) feet, South Sixty (60) degrees Thirty-three (33) minutes East, Thirty-five (35.00) feet, North Forty-six (46) degrees Fifty-three (53) minutes East, One-hundred Thirty-five (135.00) feet, North Six (06) degrees Ten (10) minutes West, Three-hundred and Ten (310.00) feet, North Eighteen (18) degrees Fifty-two (52) minutes East, One-hundred and Eighteen (118.00) feet, North Thirty-six (36) degrees Fifty-two (52) minutes East, One-hundred Thirty-three (133.00) feet, North Fifty-seven (57) degrees Thirty-four (34) minutes East, Two-hundred (200.00) feet, South Seventy-three (73) degrees Forty-four (44) minutes East, One-hundred Eighty-four (184.00) feet, North Fifty-six (56) degrees Forty-eight (48) minutes East, One-hundred Sixty-seven (167.00) feet, South Eighty-nine (89) degrees Thirty-eight (38) minutes East, One-hundred Forty-eight (148.00) feet, North Sixty-eight (68) degrees Sixteen (16) minutes East, One-hundred and Fifty-five (155.00) feet, North Eighty-nine (89) degrees Forty-nine (49) minutes East, Two-hundred and Seven (207.00) feet, North Fifty-nine (59) degrees. Seven (07)

minutes East, One-hundred Sixty-one (161.00) feet, North Thirty-four (34) degrees Fifty-three (53) minutes East, One-hundred Eighty-three (183.00) feet, North Seventy-eight (78) degrees Eight (08) minutes East, Two-hundred Forty-eight (248.00) feet, North Sixty-one (61) degrees Fifteen (15) minutes East, Two-hundred and Forty-five (245.00) feet, North Seventy (70) degrees Thirty (30) minutes East, Two-hundred twenty-four and Forty-two One Hundredths (224.42) feet, North Forty-seven (47) degrees Ten (10) minutes East, Two-hundred Twenty and Eighty-seven One Hundredths (220.87) feet, North One (01) degree Twenty-eight (28) minutes East, Ninety-six and Fifty one Hundredths (96.50) feet, North Thirty-five (35) degrees Forty-eight (48) minutes East, One-hundred Twenty-one and Forty-five One Hundredths (121.45) feet to an iron pipe in the centerline of the old Federal Point Road, thence with and along the centerline of the Old Federal Point Road in generally a Southeastwardly direction the following courses and distances: South Forty-two (42) degrees Two (02) minutes East, One-hundred Thirty-two and Thirteen One Hundredths (132.13) feet to an old pipe, South Thirty-eight (38) degrees Eighteen (18) minutes East, Two-hundred Twenty-nine and Eighty-two One Hundredths (229.82) feet to a pipe, South Forty-two (42) degrees Nineteen (19) minutes East, One-hundred Sixteen (116.00) feet to a pipe, South Thirty-seven (37) degrees Fifty-four (54) minutes East, One-hundred and Fifty (150.00) feet to a pipe, South Thirty-nine (39) degrees Forty-four (44) minutes East, Five-hundred Thirty-nine and Twenty-four One Hundredths (539.24) feet to an old concrete monument, thence leaving the centerline of said road and running thence South Twenty-six (26) degrees Forty-one (41) minutes West, One-thousand Nine-hundred Twenty-three and Seventy-two One Hundredths (1,923.72) feet to an old pipe in the centerline of the old Fergus Ditch, runs thence in a Northwestwardly direction with and along the centerline of said ditch, North Sixty (60) degrees Forty-three (43) minutes and Thirty (30) seconds West, Five hundred Twenty-five and Eighty-two One Hundredths (525.82) feet to an old pipe, continuing with said ditch North Sixty-seven (67) degrees Eighteen (18) minutes and Thirty (30) seconds West, Eight-hundred Sixty and Three One Hundredths (860.03) feet to an old pipe, thence in a southerly direction along the centerline of another ditch South Twelve (12) degrees Fifty-eight (58) minutes West, One-thousand Forty-five and Fifteen One Hundredths (1,045.15) feet to an old pipe (the intersection of the ditches), thence South Twenty-three (23) degrees Forty-one (41) minutes West, Nine-hundred Eighty-one and Sixty-five One Hundredths (981.65) feet to an old iron rod, thence South Twenty-two (22) degrees Forty-three (43) minutes West and running through an old axle at Three-hundred Twelve and Thirty-four One Hundredths (312.34) feet and a concrete monument at Four-hundred Five and Three One Hundredths (405.03) feet, a total distance of Four-hundred Fifteen and Three One Hundredths (415.03) feet to an iron pipe in the centerline of a canal; thence South Seventy-five (75) degrees Nine (09) minutes West, Forty-two and Forty-two one hundredths (42.42) feet to an iron pipe, thence South Fifty-six (56) degrees Two (02) minutes West, One thousand Two-hundred Seventy-two and Eighteen One Hundredths (1,272.18) feet to an iron pipe, thence North Nine (09) degrees Eight (08) minutes East, Three-hundred Ninety-eight and Seven Tenths (398.7) feet to an iron pipe, thence South Fifty-six (56) degrees Two (02) minutes West, Two-hundred Ninety-nine and Two Tenths (299.2) feet to an iron pipe, thence South Nine (09) degrees Eight (08) minutes West, Three-

hundred Ninety-eight and Seven Tenths (398.7) feet to an iron pipe, thence South Fifty-six (56) degrees Two (02) minutes West, Three-hundred Twenty-two and Six Tenths (322.6) feet to an iron pipe in the eastern right-of-way line of U. S. Highway 421 (160 foot right-of-way); thence continuing South Fifty-six (56) degrees Two (02) minutes West, One-hundred Sixty (160.0) feet to a point in the western right-of-way line of said highway; thence along said western right-of-way line North Thirty-three (33) degrees Fifty-nine (59) minutes West, Three-hundred Forty-three and Sixty-eight One Hundredths (343.68) feet to a point in the centerline of Barnard's Creek; thence meandering down and with the centerline of Barnard's Creek in a generally westerly direction Ten-thousand Two-hundred (10,200) feet, more or less, to the point of intersection of said centerline with the eastern right-of-way line of River Road (SR 1100)(a 100-foot right-of-way); thence along said eastern right-of-way line as it curves to the left the following courses and chord distances: North Twenty-two (22) degrees Zero (00) minutes East, One-hundred Ninety and Seventy One Hundredths (190.70) feet; North Thirteen (13) degrees Forty-three (43) minutes East, One-hundred (100.0) feet, North One (1) degree Sixteen (16) minutes East, One-hundred (100.0) feet North Ten (10) degrees Twelve (12) minutes West, One-hundred (100.0) feet, North Seventeen (17) degrees Forty-nine (49) minutes West, One-hundred (100.0) feet, North Twenty-one (21) degrees Twenty-seven (27) minutes West, One-hundred (100.0) feet to a point of tangency; thence continuing along the eastern right-of-way line of River Road, North Twenty-three (23) degrees Twenty-one (21) minutes West, Two-hundred Seventy-one and Five One Hundredths (271.05) feet to a concrete monument; thence leaving said right-of-way line North Four (4) degrees Eleven (11) minutes East, Four and Ninety-one One Hundredths (4.91) feet to a concrete monument in the southern right-of-way line of SR 1186 (a 100 foot right-of-way); thence continuing North Four (4) degrees Eleven (11) minutes East, One-hundred Sixty-nine and Ninety-two One Hundredths (169.92) feet to a concrete monument in the northern right-of-way line of SR 1186; thence continuing North Four (4) degrees Eleven (11) minutes East, Seven-hundred Forty and Seventeen One Hundredths (740.17) feet to a concrete monument; thence North Nineteen (19) degrees Nineteen (19) minutes West, One-thousand Eight-hundred Twenty and Seventy-two One Hundredths (1,820.72) feet to an old iron pipe and concrete monument; thence North Seventy-eight (78) degrees Twenty-one (21) minutes East, One-hundred Ninety-nine and Ninety One Hundredths (199.90) feet to an iron pipe; thence continuing North Seventy-eight (78) degrees Twenty-one (21) minutes East, Four-hundred Sixty-four and Ten One Hundredths (464.10) feet to a concrete monument; thence continuing North Seventy-eight (78) degrees Twenty-one (21) minutes East, Three-hundred Seventy and Seven One Hundredths (370.07) feet to an old axle; thence North Seventy-eight (78) degrees Fourteen (14) minutes East, Five-hundred Eighty-two and Sixty-two One Hundredths (582.62) feet to an old axle and concrete monument in the run of Brickyard Branch; thence with and along the run of Brickyard Branch as it meanders in a generally easterly direction to Fork Branch and along the run of Fork Branch as it meanders in a generally northerly direction, the following courses and distances: South Sixty-seven (67) degrees Twenty-six (26) minutes East, Two-hundred Forty-one and Twenty-five One Hundredths (241.25) feet, South Forty-six (46) degrees Thirty (30) minutes East, One-hundred Eighteen and Seventy-three One Hundredths (118.73) feet,

South Sixty (60) degrees Fifty-five (55) minutes East, Two-hundred Nine and Fifty-three One Hundredths (209.53) feet, North Sixty-one (61) degrees Thirty-six (36) minutes East, Fifty-four and Fifty-four One Hundredths (54.54) feet, South Sixty-four (64) degrees Eleven (11) minutes East, One-hundred Sixteen and Ninety One Hundredths (116.90) feet, South Fifty-one (51) degrees Eleven (11) minutes East, One-hundred Twenty-six and Eighteen One Hundredths (126.18) feet, South Fifty-one (51) degrees Twenty-three (23) minutes East, Ninety-nine and Eleven One Hundredths (99.11) feet, North Eighty-two (82) degrees Thirteen (13) minutes East, Forty and Eighty-six One Hundredths (40.86) feet, South Forty-seven (47) degrees Six (06) minutes East, Sixty-seven and Thirty-nine One Hundredths (67.39) feet, South Forty-four (44) degrees Fifty-one (51) minutes East, Forty-nine and Seventy-seven One Hundredths (49.77) feet, South Forty-seven (47) degrees Fifty-eight (58) minutes East, Forty-nine and Fifty-two One Hundredths (49.52) feet, South Fifty-four (54) degrees Nineteen (19) minutes East, Fifty-one and Forty-five One Hundredths (51.45) feet, North Seventy (70) degrees Twelve (12) minutes East, Fifty-five and Thirty-four One Hundredths (55.34) feet, South Fifty-seven (57) degrees Thirty-seven (37) minutes East, Eighty-one and Fifty-four One Hundredths (81.54) feet, South Four (4) degrees Fifty-two (52) minutes East, Fifty-five and Twenty-five (55.25) feet, South Forty-one (41) degrees Seventeen (17) minutes East, Seventy-three and Twenty-five one Hundredths (73.25) feet, South Sixty-six (66) degrees Forty-five (45) minutes East, One-hundred Twenty-seven and Twenty-eight One Hundredths (127.28) feet, North Thirty-nine (39) degrees Forty-three (43) minutes East, Fifty-three and Forty One Hundredths (53.40) feet, North Fourteen (14) degrees Thirty-four (34) minutes East, Ninety-four and Fifty-four One Hundredths (94.54) feet, North Twenty-three (23) degrees Twenty-one (21) minutes East, Ninety and Ninety-two One Hundredths (90.92) feet, North Thirty-three (33) degrees Fifty-eight (58) minutes East, Ninety-one and Twenty-five One Hundredths (91.25) feet, North Four (4) degrees Seven (07) minutes West, Eighty-three and Eighty-seven One Hundredths (83.87) feet, North Forty-three (43) degrees Eight (08) minutes East, One hundred Twenty-three and Thirty-four One Hundredths (123.34) feet, North Seventeen (17) degrees Twenty (20) minutes West, Forty-eight and Ninety-eight One Hundredths (48.98) feet, North Sixteen (16) degrees Twenty-three (23) minutes East, Seventy-one and Twenty One Hundredths (71.20) feet, North Forty-five (45) degrees Fifty-eight (58) minutes East, Fifty-seven and Ninety-six One Hundredths (57.96) feet, North Eighteen (18) degrees Fifty (50) minutes East, One-hundred Five and Fifty One Hundredths (105.50) feet, North Twelve (12) degrees Forty-nine (49) minutes West, Sixty (60.00) feet, North Eight (8) degrees Twelve (12) minutes East, One-hundred Twenty-four and Thirteen One Hundredths (124.13) feet, North Fifty-nine (59) degrees Thirty-seven (37) minutes West, Forty-six and Eighty-three One Hundredths (46.83) feet, North Fifty-seven (57) degrees Thirty-six (36) minutes West, Forty-nine and Sixty-four One Hundredths (49.64) feet, North Fifty-nine (59) degrees Forty-two (42) minutes West, Fifty-one and Thirty-eight One Hundredths (51.38) feet, North Fifty-nine (59) degrees Thirteen (13) minutes West, Thirty-nine and Sixty One Hundredths (39.60) feet, North Fifty (50) degrees Ten (10) minutes West, Eighty and Twelve One Hundredths (80.12) feet, North Fifty-one (51) degrees Six (06) minutes West, One-hundred Eighteen (118.00) feet, South Sixty-nine (69) degrees Forty-four (44) minutes West, Sixty-nine and Fifteen One

Hundredths (69.15) feet, North Thirty-two (32) degrees Fifteen (15) minutes West, Fifty and Seventy-one One Hundredths (50.71) feet, North Twenty-three (23) degrees Forty (40) minutes East, Fifty-two and Forty-three One Hundredths (52.43) feet, North Sixty-eight (68) degrees Twenty-two (22) minutes West, Seventy-six and Fifty-six One Hundredths (76.56) feet, North Fourteen (14) degrees Fifty-three (53) minutes East, Eighty-three and Fifty-eight One Hundredths (83.58) feet, North Forty-seven (47) degrees Sixteen (16) minutes East, Sixty-two and Twenty-five One Hundredths (62.25) feet, North Five (5) degrees Fifty-seven (57) minutes East, One-hundred Forty-eight and Twenty-three One Hundredths (148.23) feet, North Fifty-eight (58) degrees Twenty-three (23) minutes East, Ninety-eight and Twenty One Hundredths (98.20) feet, North One (1) degree Twenty-two (22) minutes West, Eighty-seven and Thirty One Hundredths (87.30) feet to a stone marked "J.C.P."; thence South Sixty-one (61) degrees Three (03) minutes East, Five-hundred Fifty-eight and Forty-four One Hundredths (558.44) feet to an iron pipe in the northern line of SR 1186; thence South Sixty-one (61) degrees Four (04) minutes East, One-hundred and Eighty-eight One Hundredths (100.88) feet to an iron pipe in the southern line of said SR 1186; thence continuing South Sixty-one (61) degrees Four (04) minutes East, Two-hundred Fifty-three and One One Hundredth (253.01) feet to a stone; thence South Sixty (60) degrees Fifty-nine (59) minutes East, Three-hundred Sixty-four and Sixty One Hundredths (364.60) feet to an old axle; thence South Sixty (60) degrees Fifty-eight (58) minutes East, Eight-hundred Twelve and Twenty-nine One Hundredths (812.29) feet to a concrete monument; thence South Fifty-four (54) degrees Twenty-nine (29) minutes East, Five-hundred Thirty-nine and Thirty-nine One Hundredths (539.39) feet to a concrete monument; thence North Eighty-eight (88) degrees One (01) minute East, Five-hundred Fifty and Thirteen One Hundredths (550.13) feet to the point of BEGINNING, the above description includes Echo Farms as shown on the annexation map recorded in Map Book 15, page 1, and Echo East as shown on the annexation map recorded in Map Book 15, page 2 of the New Hanover County Registry.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1977.

S. B. 714 CHAPTER 455

AN ACT TO MAKE PART 3 OF ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES, APPLICABLE TO THE CITY OF ROANOKE RAPIDS, SUBJECT TO A VOTE OF THE PEOPLE IN ROANOKE RAPIDS TOWNSHIP.

The General Assembly of North Carolina enacts:

Section 1. Subject to approval of the voters of Roanoke Rapids Township pursuant to Section 2 of this act, G.S. 160A-56, as the same appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by striking out of the second line thereof the word "Halifax".

Sec. 2. Unless the election specified herein is canceled pursuant to Section 3 hereof, the Halifax County Board of Elections shall, at the general

election to be held in November 1978, prepare and submit to the qualified voters of Roanoke Rapids Township a ballot bearing the words "FOR STATEWIDE ANNEXATION LAW" and "AGAINST STATEWIDE ANNEXATION LAW". The election shall be conducted in accordance with the laws, rules and regulations governing general elections. A notice of the special election shall be given as provided in G.S. 163-33(8). No new or special registration shall be required, and all qualified electors of the township shall be eligible to vote on said question; if a majority of those voting vote "FOR STATEWIDE ANNEXATION LAW", then G.S. 160A-56 shall be amended as provided in Section 1 of this act, effective on January 1, 1979. If a majority of those voting vote "AGAINST STATEWIDE ANNEXATION LAW", then G.S. 160A-56 shall not be so amended and this act for all intents and purposes shall be null and void.

Sec. 3. The City Council of the City of Roanoke Rapids is hereby authorized to cancel the special election specified in Section 2 hereof by the adoption of a resolution during the month of June 1978, canceling the same and by transmitting written notice of such adoption to the Halifax County Board of Elections not later than July 10, 1978. If such a resolution is so adopted and notice thereof so transmitted, then the Halifax County Board of Elections shall not conduct the special election specified in Section 1 and this act shall be null and void.

Sec. 4. Subject to Section 2 hereof, this act becomes effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1977.

S. B. 420 CHAPTER 456

AN ACT TO AMEND G.S. 97-80 OF THE WORKMEN'S COMPENSATION ACT CONCERNING THE TAXING OF COSTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-80 is hereby amended by inserting following the comma and before the word "to" as the same appears in line five of such section the following: "to tax costs against the parties, and".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1977.

S. B. 421 CHAPTER 457

AN ACT TO AMEND G.S. 97-40.1 OF THE WORKMEN'S COMPENSATION ACT CONCERNING THE SECOND INJURY FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-40.1 is hereby amended by striking out "twenty-five dollars ($25.00)" as the same appears in line 6 of such section and by substituting in lieu thereof "fifty dollars ($50.00)" and by striking out "one hundred dollars ($100.00)" as the same appears in line 8 of such section, and by substituting in lieu thereof "two hundred dollars ($200.00)".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 31st day of May, 1977.

H. B. 649 CHAPTER 458

AN ACT TO AMEND 90-216.6 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE DISPOSITION OF UNCLAIMED BODIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-216.6, as the same now appears in the 1975 Supplement to Volume 2C of the General Statutes, is hereby amended by adding at the end thereof a new subsection (h) to read as follows:

"Nothing in this Article shall require the officers, employees or agents of a county to notify the commission regarding the bodies of minors who were in the custody of the county at the time of death and for whose burial the county will arrange. In the absence of notification, the expenses of the burial shall be a charge upon the county having custody."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

H. B. 917 CHAPTER 459

AN ACT TO AMEND CHAPTER 841 OF THE SESSION LAWS OF 1955 RELATING TO THE ESTABLISHING ALCOHOLIC BEVERAGE CONTROL STORES IN THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 841 of the Session Laws of 1955 as amended by Chapter 951 of the Session Laws of 1967 is rewritten to read as follows:

"Sec. 6. The City of High Point Board of Alcoholic Control shall at the end of each quarterly period following the establishment of liquor control stores deduct the necessary expenses of the operation of such stores, and shall expend for law enforcement, education and rehabilitation purposes not less than five percent (5%) nor more than fifteen percent (15%) of the total profits, and shall retain a sufficient and proper working capital, the amount to be determined by the board; and the entire net profits derived from the operation of liquor control stores in the City of High Point shall be paid as follows:

a. Twenty percent (20%) of said net profits shall be apportioned and paid into the General Fund of Guilford County.

b. Eighty percent (80%) of said net profits shall be paid to the tax collector of the City of High Point and may be used by the City of High Point for any public purposes."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

H. B. 1000 **CHAPTER 460**

AN ACT TO AMEND G.S. 136-18 TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CONDEMN FOR IMPROVEMENTS TO STATE MAINTAINED SECONDARY ROADS UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18, as the same appears in the 1974 Replacement Volume 3B of the General Statutes, is hereby amended by adding a new subdivision "(26)" at the end thereof to read as follows:

"(26) The Department of Transportation, at the request of a representative from a board of county commissioners, is hereby authorized to acquire by condemnation new or additional right-of-way to construct, pave or otherwise improve a designated State maintained secondary road upon presentation by said board to the Department of Transportation of a duly verified copy of the minutes of its meeting showing approval of such request by a majority of its members and by the further presentation of a petition requesting such improvement executed by the abutting owners whose frontage on said secondary road shall equal or exceed seventy-five percent (75%) of the linear front footage along the secondary road sought to be improved."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

H. B. 1008 **CHAPTER 461**

AN ACT TO AMEND G.S. 20-118(5) TO CLARIFY THE EXEMPTION FOR TRUCKS OR OTHER MOTOR VEHICLES TRANSPORTING SUPPLIES, MATERIAL, EQUIPMENT OR PRODUCTS NECESSARY IN CARRYING OUT FARMING OPERATIONS FROM PENALTIES PROVIDED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(5) as the same appears in the 1975 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended on line 23 by inserting between the word and punctuation "road." and the word "Provided" the following sentence: "Provided further that a truck or other motor vehicle whose axle load exceeds that prescribed for light traffic roads shall be exempt from such limitations when transporting meats and row crop products originating from a farm on a light traffic road to the nearest State maintained road which is not posted to prohibit the transportation of statutory legal load limits."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

H. B. 1126 **CHAPTER 462**

AN ACT TO AMEND CHAPTER 143B TO CONFORM TO NAME CHANGES OF VARIOUS NORTH CAROLINA INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-170 is amended by rewriting the subsections (1) and (3) to read as follows:

"(1) The Board of Directors of the North Carolina Specialty Hospitals;

(3) The Board of Directors of the Lenox Baker Children's Hospital;".

Sec. 2. G.S. 143B-173 is amended by rewriting subsections (1) and (3) to read as follows:

"(1) The Board of Directors of the North Carolina Specialty Hospitals;

(3) The Board of Directors of the Lenox Baker Children's Hospital;".

Sec. 3. G.S. 143B-174 is amended on line 2 by deleting the words "Sanatoriums for the Treatment of Tuberculosis" and inserting in lieu thereof the words "Specialty Hospitals" and on lines 4 and 5 by deleting the words "Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina" and inserting in lieu thereof the words "Lenox Baker Children's Hospital" and on line 21 by deleting the words "Tuberculosis Sanatoriums" and inserting in lieu thereof the words "North Carolina Specialty Hospitals" and on lines 27 and 28 by deleting the words "Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North Carolina" and inserting in lieu thereof the words "Lenox Baker Children's Hosptial".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

H. B. 1134 **CHAPTER 463**

AN ACT TO AMEND ARTICLE 11 OF CHAPTER 33 RELATING TO GIFTS TO MINORS TO BROADEN THE CATEGORY OF THOSE ELIGIBLE TO BECOME A CUSTODIAN FOR THE PURPOSES OF THAT ARTICLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 33-68(11) is hereby amended on line 4 after the word "adoption" by adding the following: "or the adult spouse of a brother, sister, aunt or uncle".

Sec. 2. G.S. 33-74 is hereby amended by adding a new subsection at the end thereof as follows:

"(g) A custodian who is the donor may resign in the manner provided in G.S. 33-74(c) and, notwithstanding the provisions of G.S. 33-74(a), may designate as a successor custodian any person of his selection."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

S. B. 213

CHAPTER 464

AN ACT TO CHANGE THE MEMBERS OF THE BOARD OF TRANSPORTATION, TO ABOLISH THE SECONDARY ROADS COUNCIL AND TO MAKE OTHER CHANGES IN THE LAWS RELATING TO THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

——STATUTORY TEXT REFERENCES

Section 1. This bill proposes amendments to a large number of sections of G.S. Chapters 136 and 143B. Some references to sections in these Chapters use specific text citations, and some do not use these citations. Unless otherwise specifically set out, G.S. section references used in this bill to direct alterations in identified lines, sentences, and paragraphs in sections of G.S. Chapters 136 and 143B refer to the text as it appears in 1974 G.S. Replacement Volumes 3B and 3C as they are amended by their 1975 Cumulative Supplements.

——TRANS. DEPT./ORGANIZATION STATUTE REWRITE (G.S. Ch. 143B)

Sec. 2. G.S. 143B-346 is rewritten as follows:

"§ 143B-346. *Department of Transportation - purpose.*—The general purpose of the Department of Transportation is to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system for the economical and safe transportation of people and goods as provided for by law. The department shall also provide and maintain an accurate register of transportation vehicles as provided by statutes, and the department shall enforce the laws of this State relating to transportation safety assigned to the department. The Department of Transportation shall be responsible for all of the transportation functions of the executive branch of the State as provided by law except those functions delegated to the Utilities Commission, the State Ports Authority, and the Commissioners of Navigation and Pilotage as provided for by G.S. Chapter 76. The major transportation functions include aeronautics, highways, mass transportation, motor vehicles, and transportation safety as provided for by State law. The Department of Transportation shall succeed to all functions vested in the Board of Transportation and the Department of Motor Vehicles on July 1, 1977."

Sec. 3. G.S. 143B-347 is repealed.

Sec. 4. G.S. 143B-348 is rewritten to read as follows:

"§ 143B-348. *Department of Transportation - head.*—The Secretary of Transportation shall be the head of the Department of Transportation. He shall carry out the day-to-day operations of the department and shall be responsible for carrying out the policies, programs, priorities, and projects approved by the Board of Transportation. He shall be responsible for all other transportation matters assigned to the Department of Transportation, except those reserved to the Board of Transportation by statute. Except as otherwise provided for by statute, the secretary shall have all the powers and duties as provided for in Article 1 of G.S. Chapter 143B including the responsibility for all management functions for the Department of Transportation. The secretary shall be vested with authority to adopt design criteria, construction specifications, and standards as required for the Department of Transportation to construct and maintain highways, bridges, and ferries.

All rules, regulations, ordinances, specifications, standards, and criteria adopted by the Board of Transportation and in effect on July 1, 1977, shall continue in effect until changed by the Board of Transportation or the Secretary of Transportation. The Secretary shall have complete authority to modify any of these matters existing on July 1, 1977, except as specifically restricted by the board. Whenever any such criteria, rule, regulation, ordinance, specification, or standards are continued in effect under this section and the words 'Board of Transportation' are used, the words shall mean the 'Department of Transportation' unless the context makes such meaning inapplicable. All actions pending in court by or against the Board of Transportation may continue to be prosecuted in that name without the necessity of formally amending the name to the Department of Transportation."

Sec. 5. G.S. 143B-349 is repealed.

——TRANS. BOARD/ORGANIZATION STATUTE REWRITE (G.S. Ch. 143B)

Sec. 6. G.S. 143B-350 is rewritten to read as follows:

"§ 143B-350. *Board of Transportation.*—(a) There is hereby created a Board of Transportation. The board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

(b) The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the Chairman of the Board of Transportation.

(c) The Board of Transportation shall have 21 members appointed by the Governor. One member shall be appointed from each of the 14 highway engineering divisions and seven members shall be appointed from the State at large. One at large member shall be a registered voter of a political party other than the political party of the Governor. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.

(d) The Board of Transportation shall have two members appointed from the membership of the General Assembly, in addition to those members appointed by the Governor. One member shall be appointed from the membership of the Senate by the Lieutenant Governor and one member shall be appointed from the membership of the House of Representatives by the Speaker of the House of Representatives. The legislative members shall be appointed for initial terms beginning July 1, 1977, and shall serve for a term ending January 14, 1979, or until a successor is duly appointed and qualified. The succeeding term of each shall be for two years beginning January 15, 1979, and each two years thereafter. Vacancies in each office shall be filled by the incumbent of the office making the appointment to the board.

(e) The Board of Transportation shall meet once in each 60 days at such regular meeting times as the board may by rule provide and at any place in the State as the board may provide. The board may hold special meetings at any time at the call of the chairman or any three members. The board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The board shall keep minutes of its meetings, which shall at all times be open to public inspection. The majority of the board shall constitute a quorum for the transaction of business. The members of the board who are not members of the General Assembly shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate. The members of the board who are members of the General Assembly shall not receive per diem but shall receive travel and subsistence expenses at the rates set out in G.S. 120-3.1.

(f) The Board of Transportation shall have duties and powers:

(1) To formulate policies and priorities for all modes of transportation under the Department of Transportation;

(2) To advise the secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the department;

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives;

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost for a period of seven years into the future which shall be published in a single document along with a report of the progress accomplished in the past year;

(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the secretary may refer to it;

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the department;

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available;

(8) To approve all highway construction programs;

(9) To approve all highway construction projects and construction plans for the construction of projects;

(10) To review all statewide maintenance functions;

(11) To award all highway construction contracts;

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain;

(13) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the department.

(g) The Board of Transportation may, in its discretion, delegate to the Secretary of Transportation the authority:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the department.

The secretary may, in turn, subdelegate these duties and powers."

Sec. 7. G.S. 143B-351 and G.S. 143B-352 are repealed.

——TRANS. DEPT. & BD/GENERAL CONFORMING CHANGE (G.S. Ch. 136)

Sec. 7.1. In all sections of Chapter 136 of the North Carolina General Statutes, where the words "Board of Transportation" are used, or where the word "Board" is used referring to the Board of Transportation, the words are amended to read "Department of Transportation", except where this act specifies "Board" or "Board of Transportation", and except in the following places:

G.S. 136-19.4(a); line 8;
G.S. 136-19.4(d); lines 1, 2, 4, 6, and 7;
G.S. 136-28.1(a); line 6;
G.S. 136-44.1; lines 5 and 6;
G.S. 136-44.3; line 6;
G.S. 136-44.4;
G.S. 136-59;
G.S. 136-62; lines 5, 6, and 15.

——TRANS. DEPT. & BD/SPECIFIC CONFORMING CHANGES

Sec. 8. G.S. 136-44.7, G.S. 136-44.10, G.S. 136-63, and G.S. 136-102.6 are amended by repealing the words "Secondary Roads Council" or the word "Council" when referring to the Secondary Roads Council, and by adding in lieu thereof the words "Board of Transportation".

Sec. 9. G.S. 136-44.8 is rewritten to read as follows:

"§ 136-44.8. *Submission of secondary roads construction programs to the county commissioners.*—Representatives of the Board of Transportation shall meet with the board of county commissioners at a regular or special meeting of the board of county commissioners, notice of which meeting shall be published by the Department of Transportation in a newspaper published in or having a general circulation in the county. The representatives of the department shall there discuss, with the board of county commissioners and other citizens present, proposed plans and proposals in the annual construction programs for the county. After the meeting, the board of county commissioners may make a written recommendation to the Board of Transportation as to the expenditure of funds for work in the county, and the Board of Transportation shall observe and follow such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. The annual work program adopted by the board shall be published, and it shall be followed, unless changes are approved by the Board of Transportation and notice of any changes is given the board of county commissioners. The board of county commissioners may petition the Board of Transportation for review of any changes to which it does not consent, and the determination of the Board of Transportation shall be final. Upon request, the most recent annual work programs adopted shall be submitted to any member of the General Assembly. The Department of

Transportation shall make the construction work program in each county available to the newspapers having a general circulation in the county."

Sec. 10. The words "Secondary Roads Council or" are repealed in lines 4, 9, and 10 of G.S. 136-13(a).

Sec. 10.1. The words and punctuation "Secondary Roads Council," are repealed in the following places:

G.S. 136-13; lines 11, 16, and 19;

G.S. 136-13.1; line 2.

Sec. 10.2. The words "or Secondary Roads Council" are repealed in lines 2, 4, and 7 of G.S. 136-14.

Sec. 11. The words "Board of Transportation" or "Board" are amended to read "Secretary of Transportation" in the following places:

G.S. 136-4;

G.S. 136-20(a); lines 8 and 9;

G.S. 136-20(b); lines 1, 6, 10, 18, and 19;

G.S. 136-20(d); lines 22, 23, 42, and 43;

G.S. 136-20(e); lines 1 and 4;

G.S. 136-20(g); lines 1, 5, 10, 21, and 22.

Sec. 12. (The text of the original Section 12 was moved to a new Section 7.1.)

Sec. 13. G.S. 136-17.1 is repealed.

Sec. 14. G.S. 136-18(8) as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by inserting in line 1 after the word "names", the following: "as determined by the Board of Transportation".

Sec. 15. G.S. 136-20(a), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Chairman of the Board of Transportation" in line 5, and inserting in lieu thereof "Secretary of Transportation".

Sec. 16. G.S. 136-28.1(e), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing "Chairman of the Board of Transportation" in line 3, and inserting in lieu thereof "Secretary of Transportation".

Sec. 17. G.S. 136-32.2(d), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the words: "the Division of Motor Vehicles by and through" in line 2.

Sec. 18. G.S. 136-33(d), as it appears in the 1974 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the words "the Department of Transportation by and through" in line 2.

Sec. 19. G.S. 136-34, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words: "for which no State highway funds are provided", in line 3.

Sec. 20. G.S. 136-41.3, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words, "Chairman of the Board of Transportation" in line 17, and inserting in lieu thereof the words "Secretary of Transportation".

Sec. 21. G.S. 136-44.10, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the second sentence.

Sec. 22. The following sections are repealed:

G.S. 136-46,

G.S. 136-47,
G.S. 136-52,
G.S. 136-53,
G.S. 136-58,
G.S. 136-83,
G.S. 136-89.31 through G.S. 136-89.47.

Sec. 23. G.S. 136-54 is rewritten to read as follows:

"The Board of Transportation shall be authorized, when in its judgment the public good requires it, to change, alter, add to, or abandon and substitute new sections for, any portion of the State highway system."

Sec. 24. G.S. 136-62, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "the Chairman of" in line 3.

Sec. 24.1. GS. 136-62, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing "Director of Highway" in line 15, and by inserting in lieu thereof "Secretary of Transportation".

Sec. 25. G.S. 136-63 is rewritten to read as follows:

"§ 136-63. *Change or abandonment of roads.*—The board of county commissioners of any county may, on its own motion or on petition of a group of citizens, request the Board of Transportation to change or abandon any road in the secondary system when the best interest of the people of the county will be served thereby. The Board of Transportation shall thereupon make inquiry into the proposed change or abandonment, and if in its opinion the public interest demands it, shall make such change or abandonment. If the change or abandonment shall affect a road connecting with any street of a city or town, the change or abandonment shall not be made until the street governing body of the city or town shall have been duly notified and given opportunity to be heard on the question. Any request by a board of county commissioners or street governing body of a city refused by the Board of Transportation may be presented again upon the expiration of 12 months."

Sec. 26. G.S. 136-105, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Chairman of the Board of Transportation" in lines 3 and 4 of the second paragraph and by inserting in lieu thereof the words "Secretary of Transportation".

Sec. 27. G.S. 136-82.1 is rewritten to read as follows: "The Department of Transportation is vested with authority to purchase liability insurance, hull insurance, and protection insurance on all vessels and boats owned, leased, chartered or otherwise controlled and operated by the Department of Transportation".

Sec. 28. G.S. 136-106(b), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Chairman of the Board of Transportation" in lines 1 and 2, and inserting in lieu thereof "Department of Transportation".

Sec. 29. G.S. 136-111, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Director of Highways" in lines 16 and 17, and by inserting in lieu thereof "Secretary of Transportation".

Sec. 30. G.S. 136-115(2), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the

third line, and by inserting in lieu thereof the following: "the word 'Department' shall mean the Department of Transportation".

Sec. 31. G.S. 136-130, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the last sentence.

Sec. 32. The words "Board of Transportation or the Secretary of Transportation" or "Board of Transportation or Secretary of Transportation" are repealed, and the words "Department of Transportation" are inserted in lieu thereof, in the following places:

G.S. 136-133; lines 9, 11, and 15;
G.S. 136-134; lines 4, 12, 13, 19, 20, 23, and 24;
G.S. 136-134.1; line 5 of the second paragraph;
G.S. 136-134.1; lines 12 and 13 of the third paragraph;
G.S. 136-135; lines 4, 5, and 6;
G.S. 136-149.1; line 5 of the second paragraph.

Sec. 33. The words "Secretary of Transportation" are repealed and the words "Department of Transportation" are inserted in lieu thereof in the following places:

G.S. 136-134.1, line 7 of the second paragraph;
G.S. 136-149.1, line 7 of the second paragraph.

Sec. 34. The words "Board of Transportation" or "Board" when referring to the Board of Transportation are repealed, and the words "Department of Transportation" are inserted in lieu thereof, in the following places:

G.S. 14-128
G.S. 20-4.01(35)
G.S. 20-81.1(e)
G.S. 20-81.3(c)
G.S. 20-81.5(b)
G.S. 20-81.6(e)
G.S. 20-115
G.S. 20-116(e)
G.S. 20-116(h)
G.S. 20-118
G.S. 20-118.2
G.S. 20-119
G.S. 20-121
G.S. 20-122(c)
G.S. 20-123(a)
G.S. 20-130.2
G.S. 20-141
G.S. 20-143
G.S. 20-144
G.S. 20-150
G.S. 20-153(c)
G.S. 20-158
G.S. 20-158.1
G.S. 20-165
G.S. 20-165.1
G.S. 20-166(b)
G.S. 20-175
G.S. 20-175(b)
G.S. 20-183.9
G.S. 20-190.2
G.S. 20-194(a)
G.S. 20-196
G.S. 20-212
G.S. 20-215
G.S. 47-27
G.S. 58-190
G.S. 74-67
G.S. 87-9
G.S. 105-86
G.S. 143-134
G.S. 143-291
G.S. 146-26.1
G.S. 153A-241
G.S. 153A-242
G.S. 153A-291
G.S. 156-88
G.S. 160A-274(c)
G.S. 160A-299
G.S. 162A-54
G.S. 162A-74

Sec. 35. G.S. 113A-54(a), as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended by repealing the words "Secretary of the Department of Transportation and Highway Safety" in lines 2 and 3 and by inserting in lieu thereof "Secretary of Transportation".

Sec. 36. G.S. 114-4.2, as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended by repealing the words "and Highway Safety" from lines 4 and 5, and line 11.

Sec. 37. The second paragraph of G.S. 20-183.9 is repealed.

Sec. 38. G.S. 121-4(7), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "and Highway Safety" in line 7.

Sec. 39. G.S. 136-44.3, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing from line 11 the words "House and Senate Road Committees and to the" and repealing the remainder of the sentence, and inserting in lieu thereof the words "any member of the General Assembly upon request".

Sec. 40. G.S. 136-44.4, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing from line 12 the words "House and Senate Committees" and repealing the remainder of the sentence, and inserting in lieu thereof the words, "any member of the General Assembly upon request".

Sec. 41. G.S. 143B-390 is amended on line 7 by deleting the word "Transportation" and inserting in lieu thereof the word "Commerce".

Sec. 42. Line 1 of G.S. 136-18(16), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended to read as follows:

"The Department of Transportation, pursuant to a resolution of the Board of Transportation, shall have authority, under the power of".

——EFFECTIVE DATE

Sec. 43. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

S. B. 385 CHAPTER 465

AN ACT TO AUTHORIZE MUNICIPALITIES TO CREATE PUBLIC TRANSPORTATION AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160 of the General Statutes is amended by inserting a new Article to be designated 38A and to read as follows:

"ARTICLE 38A.

"Public Transportation Authorities.

"§ 160-496.1. *Title.*—This Article shall be known and may be cited as the 'North Carolina Public Transportation Authorities Act'.

"§ 160-496.2. *Definitions.*—As used in the Article, unless the context otherwise requires:

(1) 'Authority' means a body corporate and politic organized in accordance with the provisions of this Article for the purposes, with the powers and subject to the restrictions hereinafter set forth.

(2) 'Governing body' means the board, commission, council or other body, by whatever name it may be known, in which the general legislative powers of the municipality are vested.

(3) 'Municipality' means any county, city, or town of this State, and any other political subdivision, public corporation, authority, or district in this State, which is or may be authorized by law to acquire, establish, construct, enlarge, improve, maintain, own, and operate public transportation systems.

(4) 'Municipality's chief administrative official' means the county manager, city manager, town manager, or other person, by whatever title he shall be known, in whom the responsibility for the municipality's administrative duties is vested.

(5) 'Public transportation' means transportation of passengers whether or not for hire by any means of conveyance, including but not limited to a street railway, elevated railway or guideway, subway, motor vehicle or motor bus, either publicly or privately owned and operated, holding itself out to the general public for the transportation of persons within the territorial jurisdiction of the authority, including charter service.

(6) 'Public transportation system' means, without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, vehicle parking or other facilities, and rights-of-way, or any combination thereof, used or useful for the purposes of public transportation.

"§ 160-496.3. *Creation; membership.*—A municipality may, by resolution or ordinance, create a transportation authority, hereinafter sometimes referred to as the 'authority'. It shall be a body corporate and politic. It shall consist of up to 11 members as determined by the governing body of the municipality.

Members of the authority shall reside within the territorial jurisdiction of the authority as hereinafter set out. They shall be appointed by the governing body of the municipality. The terms of the members shall be fixed by the governing body. Appointments to fill vacancies occurring during the regular terms shall be made by the governing body. The appointments of all members shall run until their successors are appointed and qualified.

The members of the authority shall elect a chairman and vice-chairman from the membership of the authority. They shall also elect a secretary who may, or may not, be a member of the authority.

A majority of the members shall constitue a quorum for the transaction of business and an affirmative vote of the majority of the members present at a meeting of the authority shall be required to constitute action of the authority. Members of the authority shall receive such compensation, if any, as may be fixed by the governing body of the municipality.

"§ 160-496.4. *Purpose of the authority.*—The purpose of the authority shall be to provide for a safe, adequate and convenient public transportation system for the municipality creating the authority and for its immediate environs, through the granting of franchises, ownership and leasing of terminals, buses and other transportation facilities and equipment, and otherwise through the exercise of the powers and duties conferred upon it.

"§ 160-496.5. *General powers of the authority.*—The general powers of the authority shall include any or all of the following:

(1) to sue and be sued;

(2) to have a seal;

(3) to make rules and regulations, not inconsistent with this Article, for its organization and internal management;

(4) to employ persons deemed necessary to carry out the management functions and duties assigned to them by the authority and to fix their compensation, within the limit of available funds;

(5) with the approval of the municipality's chief administrative official, to use officers, employees, agents and facilities of the municipality for such purposes and upon such terms as may be mutually agreeable;

(6) to retain and employ counsel, auditors, engineers and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice;

(7) to acquire, maintain and operate such lands, buildings, structures, facilities, and equipment as may be necessary or convenient for the operations of the authority and for the operation of a public transportation system;

(8) to make or enter into contracts, agreements, deeds, leases, conveyances or other instruments, including contracts and agreements with the United States and the State of North Carolina;

(9) to surrender to the municipality any property no longer required by the authority;

(10) to make plans, surveys and studies of public transportation facilities within the territorial jurisdiction of the authority and to prepare and make recommendations in regard thereto;

(11) to enter into and perform contracts with public transportation companies with respect to the operation of public passenger transportation;

(12) to issue certificates of public convenience and necessity; and to grant franchises and enter into franchise agreements and in all respects to regulate the operation of buses, taxicabs and other methods of public passenger transportation which originate and terminate within the territorial jurisdiction of the authority as fully as the municipality is now or hereafter empowered to do within the territorial jurisdiction of the municipality;

(13) to operate public transportation systems and to enter into and perform contracts to operate public transportation services and facilities and to own or lease property, facilities and equipment necessary or convenient therefor, and to rent, lease or otherwise sell the right to do so to any person, public or private; further, to the extent authorized by resolution or ordinance of the municipality to obtain grants, loans and assistance from the United States, the State, any public body, or any private source whatsoever;

(14) to enter into and perform contracts and agreements with other public transportation authorities pursuant to the provisions of G.S. 160A-460 through G.S. 160A-464 of Part 1 of Article 20 of Chapter 160A of the General Statutes; in addition, to enter into and perform contracts with other units of local government when specifically authorized by the governing body, pursuant to the provisions of G.S. 160A-460 through G.S. 160A-464 of Part 1 of Article 20 of Chapter 160A of the General Statutes;

(15) to do all things necessary or convenient to carry out its purpose and to exercise the powers granted to the authority.

"§ 160-496.6. *Authority of Utilities Commission not affected.*—Except as otherwise provided herein, nothing in this Article shall be construed to limit or otherwise affect the power or authority of the North Caroline Utilities

Commission or the right of appeal to the North Carolina Utilities Commission as provided by law.

"§ 160-496.7. *Territorial jurisdiction.*—The jurisdiction of the authority shall extend to all local public passenger transportation operating within the municipality. Said jurisdiction shall also extend up to 30 miles outside of the corporate limits of the municipality where the municipality is a town or city, and up to five miles outside of the boundaries of the municipality where the municipality is a county or up to five miles outside of the combined boundaries of a group of counties. The authority shall not have jurisdiction over public transportation subject to the jurisdiction of and regulated by the I.C.C., nor shall it have jurisdiction over intrastate public transportation classified as common carriers of passengers by the North Carolina Utilities Commission. A Public Transportation Authority shall not extend service into a political subdivision without the consent of the governing body of that political subdivision. A majority vote of the governing body shall constitute consent.

"§ 160-496.8. *Fiscal accountability.*—The authority shall be fiscally accountable to the municipality, and the municipality's governing body shall have authority to examine all records and accounts of the authority at any time.

"§ 160-496.9. *Funds.*—The establishment and operation of a transportation authority as herein authorized are governmental functions and constitute a public purpose, and the municipality is hereby authorized to appropriate funds to support the establishment and operation of the Transit Authority. The municipality may also dedicate, sell, convey, donate or lease any of its interest in any property to the authority. Further, the authority is hereby authorized to establish such license and regulatory fees and charges as it may deem appropriate, subject to the approval of the governing body of the municipality. If the governing body finds that the funds otherwise available are insufficient, it may call a special election without a petition and submit to the qualified voters of the municipality the question of whether or not a special tax shall be levied and/or bonds issued, specifying the maximum amount thereof, for the purpose of acquiring lands, buildings, equipment and facilities and for the operations of the Transit Authority.

"§ 160-496.10. *Effect on existing franchises and operations.*—In the event a Transportation Authority is established under the authority of this Article, any existing franchises granted by the municipality shall continue in full force and effect until legally terminated; further, all ordinances and resolutions of the municipality regulating bus operations and taxicabs shall continue in full force and effect until superseded by regulations of the Transportation Authority.

"§ 160-496.11. *Termination.*—The governing body of the municipality shall have the authority to terminate the existence of the authority at any time. In the event of such termination, all property and assets of the authority shall automatically become the property of the municipality and the municipality shall succeed to all rights, obligations and liabilities of the authority.

"§ 160-496.12. *Controlling provisions.*—Insofar as the provisions of this Article are not consistent with the provisions of any other law, public or private, the provisions of this Article shall be controlling.

"§ 160-496.13. *Consolidation of public transportation authority and parking authority.*—The municipality may, by resolution or ordinance, vest in a single body corporate and politic both the powers of a public transportation authority in accordance with the provisions of this Article and the powers of a parking

authority in accordance with the provisions of Article 38 of Chapter 160 of the General Statutes. Notwithstanding the membership provisions of G.S. 160-478, the members of a consolidated body created pursuant to this section shall be selected according to the provisions of G.S. 160-496.3.

"§ 160-496.14. *Joint provision of services.*—Two or more municipalities may cooperate in the exercise of any power granted by this Article according to the procedures and provisions of G.S. 160A-460 through G.S. 160A-464 of Part I of Article 20 of Chapter 160A of the General Statutes. Additional municipalities may join an existing transportation authority upon making satisfactory arrangements pursuant to the provisions of G.S. 160A-460 through G.S. 160A-464 of Part 1 of Article 20 of Chapter 160A of the General Statutes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

S. B. 577 CHAPTER 466

AN ACT TO PERMIT THE CREATION OF COUNTY WATER AND SEWER DISTRICTS, THE ISSUANCE OF THE BONDS AND NOTES OF SUCH DISTRICTS, AND THE LEVY OF TAXES WITHIN SUCH DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 162A is amended by adding thereto a new Article, to read as follows:

"ARTICLE 6.

"County Water and Sewer Districts.

"§ 162A-81. *Petition for formation of district; hearing.*—(a) Upon receipt of a petition signed by at least fifty-one percent (51%) of the qualified voters of a proposed county water and sewer district, the board of commissioners of any county may create such a district. The petition shall set forth:

(1) a description of the territory to be embraced within the proposed district;

(2) the name of each city or town located in whole or in part within the proposed district;

(3) the purpose or purposes sought to be accomplished by the creation of the district; and

(4) the name of the proposed district.

(b) Before creating such a district, the board of commissioners shall hold a public hearing. Notice of the hearing shall state the date, hour, and place of the hearing and its subject. The notice shall be published once a week for three weeks in a newspaper that circulates in the proposed district and in addition shall be posted in at least three public places in the district. The notice shall be posted and published the first time not less than 20 days before the hearing.

(c) At the public hearing, the commissioners shall hear all interested persons and may adjourn the hearing from time to time.

"§ 162A-82. *Creation of district; standards; limitation of actions.*—(a) Following the public hearing, the board of commissioners may, by resolution, create a county water and sewer district if the board finds that:

(1) there is a demonstrable need for providing in the district water services, or sewer services, or both;

(2) the residents of all the territory to be included in the district will benefit from the district's creation; and

(3) it is economically feasible to provide the proposed service or services in the district without unreasonable or burdensome annual tax levies.

Territory lying within the corporate limits of a city or town may not be included in the district unless the governing body of the city or town agrees by resolution to such inclusion. Otherwise, the board of commissioners may define as the district all or any portion of the territory described in the petition presented to it.

(b) Upon adoption of a resolution creating a county water and sewer district, the board of commissioners shall cause the resolution to be published once in each of two successive weeks in the newspaper in which the notices of the hearing were published. In addition, the commissioners shall cause to be published with the resolution a notice in substantially the following form:

'The foregoing resolution was adopted by the _____ County Board of Commissioners on _____ and was first published on _____.

Any action or proceeding questioning the validity of this resolution or the creation of the _____ Water and Sewer District of _____ County or the inclusion in the district of any of the territory described in the resolution must be commenced within 30 days after the first publication of the resolution.

_____
Clerk, _____ County Board of Commissioners'

Any action or proceeding in any court to set aside a resolution creating a county water and sewer district, or questioning the validity of such a resolution, the creation of such a district, or the inclusion in such a district of any of the territory described in the resolution creating the district must be commenced within 30 days after the first publication of the resolution and notice. After the expiration of this period of limitation, no right of action or defense founded upon the invalidity of the resolution, the creation of the district, or the inclusion of any territory in the district may be asserted, nor may the validity of the resolution, the creation of the district, or the inclusion of the territory be open to question in any court upon any ground whatever, except in an action or proceeding commenced within that period.

"§ 162A-83. *District is a municipal corporation.*—The inhabitants of a county water and sewer district created pursuant to this Article are a body corporate and politic by the name specified by the board of commissioners. Under that name they are vested with all the property and rights of property belonging to the corporation; have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold any property, real and personal, devised, bequeathed, sold, or in any manner conveyed, dedicated to, or otherwise acquired by them, and from time to time may hold, invest, sell, or dispose of the same; may have a common seal and alter and renew it at will; and may exercise those powers conferred on them by this Article.

"§ 162A-84. *Governing body of district; powers.*—The board of commissioners of the county in which a county water and sewer district is created is the governing body of the district.

"§ 162A-84.1. *Eminent domain power authorized.*—A county water and sewer district shall have the power of eminent domain, to be exercised in accordance with Article 9 of G.S. Chapter 136, over the acquisition of any improved or unimproved lands or rights in land.

"§ 162A-85. *Bonds and notes authorized.*—A county water and sewer district may from time to time issue general obligation and revenue bonds and bond anticipation notes pursuant to the Local Government Finance Act, for the purposes of providing sanitary sewer systems or water systems or both.

A county water and sewer district may from time to time issue tax and revenue anticipation notes pursuant to G.S. Chapter 159, Article 9, Part 2.

"§ 162A-86. *Taxes authorized.*—The governing body of a county water and sewer district may levy property taxes within the district in order to finance the operation and maintenance of the district's water system or sewer system or both and in order to finance debt service on any general obligation bonds or notes issued by the district. No voter approval is necessary in order for such taxes to be levied.

"§ 162A-87. *Special assessments authorized.*—A county water and sewer district may make special assessments against benefited property within the district for all or part of the costs of:

(1) constructing, reconstructing, extending, or otherwise building or improving water systems;

(2) constructing, reconstructing, extending, or otherwise building or improving sewage disposal systems.

A district shall exercise the authority granted by this section according to the provisions of G.S. Chapter 153A, Article 9. For the purposes of this section references in that Article to the 'county' and the 'board of commissioners' are deemed to refer, respectively, to the district and the governing body of the district."

Sec. 2. G.S. 159-44(4) is amended by striking the word "and" before "metropolitan water districts," by changing the period at the end of the paragraph to a semicolon, and by adding after the new semicolon the following: "and county water and sewer districts."

Sec. 3. G.S. 159-81(1) is amended by inserting between "metropolitan water district," and "water and sewer authority," the following: "county water and sewer district,".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.

H. B. 1125 CHAPTER 467

AN ACT TO AMEND CHAPTER 131 RELATING TO PUBLIC HOSPITALS.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 131 is hereby amended by adding a new section to read as follows:

"§ 131-53.1. *Treatment of related diseases.*—McCain Hospital, in addition to the power and authority vested in it for the treatment of persons afflicted with tuberculosis, is authorized to admit and treat patients afflicted with pulmonary, cancer, and other chronic diseases to the same extent as it now accepts and treats persons afflicted with tuberculosis.

Sec. 2. G.S. 131-54 is hereby amended on line 1 by deleting the words "Tuberculosis Sanatoriums" and inserting in lieu thereof the words "North Carolina Specialty Hospitals", and on line 10 by deleting the words "Tuberculosis Sanatoriums" and inserting in lieu thereof the words "North Carolina Specialty Hospitals", and on line 18 by deleting the word "sanatorium" and inserting in lieu thereof the word "hospital".

Sec. 3. G.S. 131-56 is hereby repealed.

Sec. 4. G.S. 131-58 is hereby amended on line 2 by deleting the words "the State sanatorium" and inserting in lieu thereof the words "McCain Hospital" and on line 4 by deleting the word "sanatorium" and inserting in lieu thereof the word "hospital".

Sec. 5. G.S. 131-61.1 is hereby amended on line 2 by deleting the word "Sanatorium" and inserting in lieu thereof the word "Hospital".

Sec. 6. G.S. 131-72 is hereby amended on lines 2 and 3 and on line 13 by deleting the words "Western North Carolina Sanatorium for the Treatment of Tuberculosis" and inserting in lieu thereof the words "Western North Carolina Hospital".

Sec. 7. G.S. 131-73 is hereby amended on line 3 by deleting the word "sanatorium" and inserting in lieu thereof the word "hospital".

Sec. 8. G.S. 131-74 is hereby amended on lines 3 and 5 by deleting the word "sanatorium" and inserting in lieu thereof the word "hospital".

Sec. 9. G.S. 131-76 shall be rewritten as follows:

"§ 131-76. *Establishment of Eastern North Carolina Hospital.*—There shall be established in eastern North Carolina, in the manner hereinafter set out, a hospital for the treatment of persons afflicted with tuberculosis, pulmonary, cancer, and other chronic diseases, to be known as the 'Eastern North Carolina Hospital'."

Sec. 10. G.S. 131-77 is hereby amended on line 2 by deleting the word "sanatorium" and inserting in lieu thereof the word "hospital".

Sec. 11. G.S. 131-78.1 is hereby repealed.

Sec. 12. G.S. 131-80 is hereby amended on line 3 by deleting the first and ninth word "sanatorium" and inserting in lieu thereof the word "hospital".

Sec. 13. G.S. 131-81 is hereby amended on lines 3 and 5 by deleting the word "sanatorium" and inserting in lieu thereof the word "hospital".

Sec. 14. Article 9A of Chapter 131 is hereby repealed.

Sec. 15. G.S. 131-127 is hereby amended on line 2 by deleting the words "Cerebral Palsy and Crippled" and on line 3 by deleting the words "of North Carolina".

Sec. 16. G.S. 131-133 is hereby amended on line 2 by deleting the words "Cerebral Palsy and Crippled" and on line 3 by deleting the words "of North Carolina".

Sec. 17. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

S. B. 229 **CHAPTER 468**

AN ACT TO AMEND GENERAL STATUTES CHAPTER 62 TO PROVIDE FOR A PUBLIC STAFF IN THE UTILITIES COMMISSION TO REPRESENT THE USING AND CONSUMING PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-10 is hereby amended by rewriting the title, subsections (a), (h) and (i); and by further adding a new subsection (j); all to read as follows:

"§ 62-10. *Number; appointment; terms; qualifications; chairman; vacancies; compensation; other employment prohibited.*—(a) The North Carolina Utilities Commission shall consist of seven commissioners who shall be appointed by the Governor subject to confirmation by the General Assembly in joint session. Not less than two members of the commission shall be persons licensed to practice law in North Carolina. The names of commissioners to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1, of the year in which the terms for which the appointments are to be made are to expire. Upon failure of the Governor to submit names as herein provided, the Lieutenant Governor and Speaker of the House jointly shall submit the names of a like number of commissioners to the General Assembly on or before May 15 of the same year for confirmation by the General Assembly. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to adjournment of the then current session of the General Assembly. This subsection shall be subject to the provisions of subsection (c) of this section.

(h) The salary of each commissioner shall be the same as that fixed from time to time for judges of the superior court except that the commissioner designated as chairman shall receive one thousand dollars ($1,000) additional per annum.

(i) The standards of judicial conduct provided for judges in Article 30 Chapter 7A of the General Statutes shall apply to members of the commission. Members of the commission shall be liable to impeachment for the causes and in the manner provided for judges of the General Court of Justice in Chapter 123 of the General Statutes. Members of the commission shall not engage in any other employment, business, profession, or vocation while in office.

(j) Members of the commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a)."

Sec. 2. G.S. 62-13 is hereby amended by deleting the present section and substituting in lieu thereof the following:

"§ 62-13. *Chairman to direct commission.*—(a) The chairman shall be the chief executive and administrative officer of the commission.

(b) The chairman shall determine whether matters pending before the commission shall be considered or heard initially by the full commission, a panel of three commissioners, a hearing commissioner, or a hearing examiner. Subject to the rules of the commission, the chairman shall assign members of the commission to proceedings and shall assign law members to preside at proceedings before the full commission or a panel of three commissioners.

(c) The chairman, the presiding commissioner, hearing commissioner, or hearing examiner shall hear and determine procedural motions or petitions not

determinative of the merits of the proceedings and made prior to hearing; and at hearing shall make all rulings on motions and objections.

(d) The chairman acting alone, or any three commissioners, may initiate investigations, complaints, or any other proceedings within the jurisdiction of the commission."

Sec. 3. G.S. 62-14 is hereby amended by deleting the present section in its entirety and substituting in lieu thereof the following:

"§ 62-14. *Commission staff; structure and function.*—(a) The commission is authorized and empowered to employ hearing examiners; court reporters; a chief clerk and deputy clerk; a commission attorney and assistant commission attorney; transportation and pipeline safety inspectors; and such other professional, administrative, technical, and clerical personnel as the commission may determine to be necessary in the proper discharge of the commission's duty and responsibility as provided by law. The chairman shall organize and direct the work of the commission staff.

(b) The salaries and compensation of all such personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies.

(c) The chairman, within allowed budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related expenses of such personnel, incurred while traveling on official business."

Sec. 4. G.S. 62-15 is hereby amended by deleting the present section in its entirety and substituting in lieu thereof the following:

"§ 62-15. *Office of executive director; public staff; structure and function.*—(a) There is established in the commission the office of executive director, whose salary shall be the same as that fixed for members of the commission. The executive director shall be appointed by the Governor subject to confirmation by the General Assembly in joint session. The name of the executive director appointed by the Governor shall be submitted to the General Assembly on or before May 1 of the year in which the term of his office begins. The term of office for the executive director shall be six years, and the initial term shall begin July 1, 1977. The executive director may be removed from office by the Governor in the event of his incapacity to serve; and the executive director shall be removed from office by the Governor upon the affirmative recommendation of a majority of the commission, concurred in by a majority of the Utility Review Committee of the General Assembly. In case of a vacancy in the office of executive director for any reason prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor to the General Assembly, not later than four weeks after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, the executive director shall be appointed by the Governor to serve on an interim basis pending confirmation by the General Assembly.

(b) There is established in the commission a public staff. The public staff shall consist of the executive director and such other professional, administrative, technical, and clerical personnel as may be necessary in order for the public staff to represent the using and consuming public, as hereinafter provided. All such personnel shall be appointed, supervised, and directed by the executive director. The public staff shall not be subject to the supervision, direction, or control of the commission, the chairman, or members of the commission.

(c) Except for the executive director, the salaries and compensation of all such personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies.

(d) It shall be the duty and responsibility of the public staff to

(1) review, investigate, and make appropriate recommendations to the commission with respect to the reasonableness of rates charged or proposed to be charged by any public utility and with respect to the consistency of such rates with the public policy of assuring an energy supply adequate to protect the public health and safety and to promote the general welfare;

(2) review, investigate, and make appropriate recommendations to the commission with respect to the service furnished, or proposed to be furnished by any public utility;

(3) intervene on behalf of the using and consuming public, in all commission proceedings affecting the rates or service of any public utility;

(4) when deemed necessary by the executive director in the interest of the using and consuming public, petition the commission to initiate proceedings to review, investigate, and take appropriate action with respect to the rates or service of public utilities;

(5) intervene on behalf of the using and consuming public in all certificate applications filed pursuant to the provisions of G.S. 62-110.1, and provide assistance to the commission in making the analysis and plans required pursuant to the provisions of G.S. 62-110.1 and G.S. 62-155;

(6) intervene on behalf of the using and consuming public in all proceedings wherein any public utility proposes to reduce or abandon service to the public;

(7) investigate complaints affecting the using and consuming public generally which are directed to the commission, members of the commission, or the public staff and where appropriate make recommendations to the commission with respect to such complaints;

(8) make studies and recommendations to the commission with respect to standards, regulations, practices, or service of any public utility pursuant to the provisions of G.S. 62-43; provided, however, that the public staff shall have no duty, responsibility, or authority with respect to the enforcement of natural gas pipeline safety laws, rules, or regulations;

(9) when deemed necessary by the executive director, in the interest of the using and consuming public, intervene in commission proceedings with respect to transfers of franchises, mergers, consolidations, and combinations of public utilities pursuant to the provisions of G.S. 62-111;

(10) investigate and make appropriate recommendations to the commission with respect to applications for certificates by radio common carriers, pursuant to the provisions of Article 6A of this Chapter;

(11) review, investigate, and make appropriate recommendations to the commission with respect to contracts of public utilities with affiliates or subsidiaries, pursuant to the provisions of G.S. 62-153;

(12) when deemed necessary by the executive director, in the interest of the using and consuming public, advise the commission with respect to

securities, regulations, and transactions, pursuant to the provisions of Article 8 of this Chapter.

(e) The public staff shall have no duty, responsibility, or authority with respect to the laws, rules or regulations pertaining to the physical facilities or equipment of common, contract and exempt carriers, the registration of vehicles or of insurance coverage of vehicles of common, contract and exempt carriers; the licensing, training, or qualifications of drivers or other persons employed by common, contract and exempt carriers, or the operation of motor vehicle equipment by common, contract and exempt carriers in the State.

(f) The executive director representing the public staff shall have the same rights of appeal from commission orders or decisions as other parties to commission proceedings.

(g) Upon request, the executive director shall employ the resources of the public staff to furnish to the commission, its members, or the Attorney General, such information and reports or conduct such investigations and provide such other assistance as may reasonably be required in order to supervise and control the public utilities of the State as may be necessary to carry out the laws providing for their regulation.

(h) The executive director is authorized, on his own initiative or at the request of the commission, to employ expert witnesses for participation in commission proceedings, and the compensation and expenses therefor shall be paid from the Contingency and Emergency Fund.

(i) The executive director, within established budgetary limits, and as allowed by law, shall authorize and approve travel, subsistence, and related necessary expenses of the executive director or members of the public staff, incurred while traveling on official business."

Sec. 5. G.S. 62-16 is hereby repealed.

Sec. 6. G.S. 62-17 is hereby amended by designating the existing subsection (b) as subsection (c); and further by adding a new subsection (b) to read as follows:

"(b) The public staff of the commission shall make and publish annual reports to the General Assembly on its activities in the interest of the using and consuming public."

Sec. 7. G.S. 62-19 is hereby amended by deleting the existing subsections (a) and (b) and substituting in lieu thereof the following:

"§ 62-19. *Public record of proceedings; chief clerk; seal.*—(a) The commission shall keep in the office of the chief clerk at all times a record of its official acts, rulings, orders, decisions, and transactions, and a current calendar of its scheduled activities and hearings, which shall be public records of the State of North Carolina.

(b) Upon receipt by the commission, the chief clerk shall furnish to the executive director copies of all rates, tariffs, contracts, applications, petitions, pleadings, complaints, and all other documents filed with the commission and shall furnish to the executive director copies of all orders and decisions entered by the commission."

Sec. 8. G.S. 62-20 is hereby amended by deleting the present section and substituting in lieu thereof the following:

"§ 62-20. *Participation by Attorney General in commission proceedings.*—The Attorney General may intervene, when he deems it to be advisable in the public interest, in proceedings before the commission on behalf of the using and

consuming public, including utility users generally and agencies of the State. The Attorney General may institute and originate proceedings before the commission in the name of the State, its agencies or citizens, in matters within the jurisdiction of the commission. The Attorney General may appear before such State and federal courts and agencies as he deems it advisable in matters affecting public utility services. In the performance of his responsibilities under this section, the Attorney General shall have the right to employ expert witnesses, and the compensation and expenses therefor shall be paid from the Contingency and Emergency Fund. The commission shall furnish the Attorney General with copies of all applications, petitions, pleadings, order and decisions filed with or entered by the commission. The Attorney General shall have access to all books, papers, studies, reports and other documents filed with the commission."

Sec. 9. G.S. 62-21 is hereby repealed in its entirety.

Sec. 10. G.S. 62-34(b) is hereby amended by rewriting said subsection (b) to read as follows:

"(b) Members of the commission, commission staff, and public staff may during all reasonable hours enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any power provided for in this Article, and may set up and use on such premises any apparatus and appliances necessary therefor. Such public utility shall have the right to be represented at the making of such examinations, tests and inspections."

Sec. 11. G.S. 62-48 is hereby amended by rewriting said section to read as follows:

"§ 62-48. *Appearance before courts and agencies.*—The commission is authorized and empowered to initiate or appear in such proceedings before federal and State courts and agencies as in its opinion may be necessary to secure for the users of public utility service in this State just and reasonable rates and service; provided, however, that the commission shall not appear in any State appellate court in support of any order or decision of the commission entered in a proceeding in which a public utility had the burden of proof."

Sec. 12. G.S. 62-51 is hereby amended by rewriting said section to read as follows:

"§ 62-51. *To inspect books and records of corporations affiliated with public utilities.*—Members of the commission, commission staff, and public staff are hereby authorized to inspect the books and records of corporations affiliated with public utilities regulated by the Utilities Commission under the provisions of this Chapter, including parent corporations and subsidiaries of parent corporations. This authorization shall extend to all reasonably necessary inspection of all books and records of account and agreements and transactions between public utilities doing business in North Carolina and their affiliated corporations where such records relate either directly or indirectly to the provision of intrastate service by the utility. The right to inspect such books and records shall apply both to books and records in the State of North Carolina and such books and records located outside of the State of North Carolina. If any such affiliated corporation shall refuse to permit such inspection of its books and records and its transactions with public utilities doing business in North Carolina, the Utilities Commission is empowered to order the public utility regulated in North Carolina to show cause why it should

not secure from its affiliated corporation such books and records for inspection in North Carolina or why their franchise to operate as a public utility in North Carolina should not be cancelled."

Sec. 13. G.S. 62-60.1(a) is hereby amended by rewriting subsection (a) as follows:

"(a) The Utilities Commission shall sit in panels of three commissioners each unless the chairman by order shall set the proceeding for hearing by the full commission."

Sec. 14. G.S. 62-70 is hereby amended by rewriting subsection (a) and adding subsection (g) as follows:

"(a) In all matters and proceedings pending on the commission's formal docket, with adversary parties of record, all communications or contact of any nature whatsoever between any party and the commission or any of its members, or any hearing examiner assigned to such docket, whether verbal or written, formal or informal, which pertains to the merits of such matter or proceeding, shall be made only with full knowledge of, or notice to, all other parties of record. All parties shall have an opportunity to be informed fully as to the nature of such communication and to be present and heard with respect thereto. In all matters and proceedings which are judicial in nature, it is the specific intent of this section that all members of the commission shall conduct all trials, hearings and proceedings before them in the manner and in accordance with the judicial standards applicable to judges of the General Court of Justice, as provided in Chapter 7A of the General Statutes, and upon the initiation of any such proceedings, and particularly during the trial or hearing thereof, there shall be no communications or contacts of any nature, including telephone communications, written correspondence, or direct office conferences, between any party or such party's attorney and any member of the commission or any hearing examiner, without all other parties to such proceeding having full notice and opportunity to be present and heard with respect to any such contact or communication.

Any commissioner who knowingly receives any such communication or contact during such proceeding and who fails promptly to report the same to the Attorney General, or who otherwise violates any of the provisions of this subsection shall be liable to impeachment. Any examiner who knowingly receives any such communication or contact during such proceeding and who fails promptly to report the same to the Attorney General or who otherwise violates any of the provisions of this subsection shall be subject to dismissal from employment for cause.

"(g) Notwithstanding the foregoing, no communication by a public utility or by the public staff with regard to matters affecting the rates charged or proposed to be charged by a public utility shall be made or directed to the commission, a member of the commission, or hearing examiner, except in the form of written tariff, petition, application, pleading, written response, written recommendation, recorded conference, intervention, answer, pleading, sworn testimony and related exhibits, oral argument on the record, or brief. Willful violations of the provisions of this section on the part of any public utility shall subject such public utility to the penalties provided in G.S. 62-310(a). Willful violations of the provisions of this section by a member of the public staff shall subject such person to dismissal for cause."

Sec. 15. G.S. 62-81 is hereby rewritten to read as follows:

"§ 62-81. *Special procedure in hearing and deciding rate cases.*—(a) All cases or proceedings, declared to be or properly classified as general rate cases under G.S. 62-137, or any proceedings which will substantially affect any utility's overall level of earnings or rate of return, shall be set for trial or hearing by the commission, which trial or hearing shall be set to commence within six months of the institution or filing thereof, and all such cases or proceedings shall be tried or heard and decided, with the issuance of a final order, by the commission within nine months of the institution or filing thereof. All such cases or proceedings shall be tried or heard and decided in accordance with the rate-making procedure set forth in G.S. 62-133 and such cases shall be given priority over all other cases or proceedings pending before the commission. In all such cases the commission shall make a transcript of the evidence and testimony presented and received by it and shall furnish a copy thereof to any party so requesting by the third business day after the taking of such evidence and testimony.

(b) Any public utility filing or applying for an increase in rates for electric, telephone, natural gas or water service shall notify its customers proposed to be affected by such increase of such filing by regular mail or by newspaper publications, as directed by the commission, within 30 days of such filing, which notice shall state that the commission shall set and shall conduct a trial or hearing with respect to such filing or application within six months of said filing date. All other public utilities shall give such notice in such manner as shall be prescribed by the commission.

(c) In cases or proceedings filed with and pending before the commission, where the total annual revenue requested, or where the total annual revenue increase requested, is less than one hundred thousand dollars ($100,000), even though all or a substantial portion of the rate structure is being initially established or is under review, the chairman of the commission may refer the proceeding to a panel of three commissioners or to a hearing commissioner or to a hearing examiner for hearing.

(d) In all proceedings for an increase in rates and all other proceedings declared to be general rate cases under G.S. 62-137, the commission shall conduct the hearing or portions of the hearing within the area of the State served by the public utility whose rates are under consideration, provided this subsection shall not apply to proceedings held pursuant to G.S. 62-134(e) and G.S. 62-133(f).

(e) Notwithstanding the provisions of this section, application by any public utility for permission and authority to adjust its rates and charges based solely upon the cost of fuel used in the generation or production of electric power shall be determined in accordance with the provisions of G.S. 62-134(e)."

Sec. 16. Chapter 62 is hereby amended by adding a new Section 327 to read as follows:

"§ 62-327. *Gifts to members of commission, commission employees, or public staff.*—It shall be unlawful for any officer, agent, employee, or attorney of any public utility or any public utility holding company, subsidiary, or affiliated company, to knowingly offer or make to any member of the commission, commission staff, or public staff, any gift of money, property, or anything of value. It shall be unlawful for any member of the commission, commission staff, or public staff to knowingly accept any gift of money, property, or anything of value from any officer, agent, employee, or attorney of any public utility or any

public utility holding company, subsidiary, or affiliated company; provided, however, that it shall not be unlawful for members of the commission, commission staff, or public staff to attend public breakfasts, lunches, dinners, or banquets sponsored by such entities. Any person violating this section shall be guilty of a misdemeanor and may be fined in the discretion of the court; provided, further, that any member of the commission staff, or member of the public staff violating this section shall also be subject to dismissal for cause."

Sec. 17. G.S. 114-2(8) is hereby amended by inserting on the first line after the number eight in parenthesis "(8)" and before the letter "a.", the following words and punctuation:

"Subject to the provisions of G.S. 62-20;".

Sec. 18. Staff position assignments.

a. Initially, the following personnel positions in the Department of Commerce Regulation of Trade Program, Public Utilities Subprogram, shall be assigned to the commission staff authorized in G.S. 62-14 and thereafter the total number shall be limited to available funding: Positions No. 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 301, 302, 305, 307, 309, 316, 317, 400, 401, 402, 403, 506, 521, 543, 702, 721, 726, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 1001, 1004, 1101, 1102, 1103, and 1112.

b. Notwithstanding the provisions of G.S. 62-15(b) as set forth in this act, initially, the following personnel positions in the Department of Commerce Regulation of Trade Program, Public Utilities Subprogram, shall be assigned to the public staff authorized in G.S. 62-15 and thereafter the total number shall be limited to available funding: Positions No. 300, 303, 304, 306, 308, 311, 312, 313, 315, 318, 405, 500, 501, 502, 503, 504, 505, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 522, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 701, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 722, 723, 724, 725, 1002, 1003, 1005, 1006, 1100, 1104, 1105, 1106, 1107, 1108, 1109, 1110, and 1111.

Sec. 19. Any position authorized by this act which is not listed in Section 18 herein may be established only if supporting funds are made available.

Sec. 20. Notwithstanding the third sentence of G.S. 62-15(a) as the same is set out in Section 4 of this act, the name of the Executive Director appointed by the Governor for the initial term shall be submitted to the General Assembly within seven days of the appropriation of the supporting funds for the said position of Executive Director.

Sec. 21. If any provision of this act or the application thereof to any person, utility or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Sec. 22. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the Department of Commerce for the use of the Utilities Commission, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 23. Public staff provisions renewable after four years. (a) Unless the General Assembly shall otherwise direct, effective August 31, 1981, the provisions of G.S. 62-15 as set forth in Sections 4 and 18 of this bill relating to the office of executive director and the public staff in the commission shall terminate, the office of executive director shall terminate, the positions assigned to the public staff shall be assigned to the commission pursuant to pertinent provisions of Chapter 62 of the General Statutes, and the words "public staff" as they appear in G.S. 62-34(b), G.S. 62-51, G.S. 62-70, and G.S. 62-327 shall be stricken from said sections of Chapter 62.

(b) No other provisions of this act shall be affected by the provisions of subsection (a) of this section and the termination date provided in subsection (a) of this section shall apply only to those provisions of this act establishing the office of executive director and a public staff in the commission and describing the duties and responsibilities of the executive director and the public staff.

Sec. 24. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 227 CHAPTER 469

AN ACT REWRITING ARTICLE 20 OF CHAPTER 163 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 163, as it appears in the 1976 Replacement Volume 3D of the General Statutes, is rewritten in its entirety as follows:

"§ 163-226. *Who may vote an absentee ballot.*—(a) Any qualified voter of the State may vote by absentee ballot in a statewide primary, general, or special election on constitutional amendments, referenda or bond proposals, and any qualified voter of a county is authorized to vote by absentee ballot in any primary or election conducted by the county board of elections, in the manner provided in this Article if:

(1) he expects to be absent from the county in which he is registered during the entire period that the polls are open on the day of the specified election in which he desires to vote; or

(2) he is unable to be present at the voting place to vote in person on the day of the specified election in which he desires to vote because of his sickness or other physical disability; or

(3) he is incarcerated, whether in his county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of his residence in any election, specified herein, in which he otherwise would be entitled to vote. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is not a felon, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to prescribe procedures to carry out the intent and purpose of this subsection;

(4) he is an employee of the county board of elections and his assigned duties on the day of the election will cause him to be unable to be

present at the voting place to vote in person and provided such employee has his application witnessed by the chairman of the county board of elections.

(b) Absentee ballots; exceptions. Notwithstanding the authority contained in G.S. 163-226(a), absentee ballots shall not be permitted in ABC elections conducted under authority of G.S. 18A-51 or G.S. 18A-52 or in sanitary district elections or in fire district elections or soil and water conservation district elections.

"§ 163-226.1. *Absentee voting in primary.*—A qualified voter may vote by absentee ballot in a statewide or countywide primary provided he is affiliated, at the time he makes application for absentee ballots, with the political party in whose primary he wishes to vote. The official registration records of the county in which the voter is registered shall be proof of whether he is affiliated with a political party and of the party, if any, with which he is affiliated.

"§ 163-226.2. *Absentee voting in municipal elections.*—Absentee voting by qualified voters residing in a municipality shall be in accordance with the authorization specified in G.S. 163-302.

"§ 163-227. *State Board to prescribe forms of applications for absentee ballots; county to secure.*—(a) A voter falling in any one of the categories defined in G.S. 163-226, G.S. 163-226.1 or G.S. 163-226.2 may apply for absentee ballots not earlier than 60 days prior to the statewide, county or municipal election in which he seeks to vote and not later than 5:00 p.m. on the Wednesday before that election. Subject to all other provisions contained in this Article, a voter applying for an absentee ballot shall complete the appropriate application to be secured by the county board of elections, lettered A, B, C, or OS, as designed and prescribed by the State Board of Elections and specified below:

Application A shall be completed by a voter expecting to be absent from the county of his residence all day on the day of the specified election. (G.S. 163-226(1)(3)).

Application B shall be completed by a voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other physical disability occurring before 5:00 p.m. on the Wednesday prior to the date of the specified election. (G.S. 163-226(2)). Application B shall be printed on the reverse side of Application A.

Application C shall be completed by a voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other physical disability occurring since 5:00 p.m. on the Wednesday prior to the date of the specified election. (G.S. 163-226(2)).

Application OS shall be completed by a voter expecting to be absent from the county, or due to emergency disability will be unable to vote in person, or a person who qualifies under G.S. 163-226(a)(4), and who, in lieu of making application by mail, wishes to apply in person and receive a ballot which he may immediately vote in the office of the county board of elections.

(b) Forms of applications; instructions.

(1) Expected absence from county on election day; Form A. A voter expecting to be absent from the county in which registered during the entire period that the polls will be open on primary or general election day, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 60 days nor later than 5:00 p.m.

on the Wednesday before the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The applicant shall sign his application personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form. The application form when properly filled out shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or the executive secretary of the county board of elections.

(2) Absence for sickness or physical disability occurring before 5:00 p.m. on the Wednesday prior to the primary or general election; Form B. A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of his sickness or other physical disability, or his near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 60 days nor later than 5:00 p.m. on the Wednesday before the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form.

The application form, when properly filled out, shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or executive secretary of the county board of elections of the county in which the applicant is registered.

(3) Absence for sickness or physical disability occurring after 5:00 p.m. on the Wednesday prior to primary or general election; Form C. A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of sickness or other disability occurring after 5:00 p.m. on the Wednesday before the election, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not later than 12:00 noon on the day preceding the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The chairman of the county board of elections shall not issue or accept an application under the provisions of this subdivision later than 10:00 a.m. on the day preceding the election in which the voter seeks to vote.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness who shall sign his name in the place provided on the form.

The certificate printed on the application form below the signatures of the applicant and his subscribing witness shall be filled in and signed in the presence of a witness by a licensed physician who is attending the applicant. The witness to the physician's certificate shall sign his name in the place provided on the form.

The application form, when properly filled out, signed by or for the applicant in the presence of a subscribing witness as provided in this subdivision, and certified and signed by the attending physician in the presence of a subscribing witness, may be transmitted by mail to the chairman or executive secretary of the board of elections of the county in which the applicant is registered, or it may be delivered to the chairman or executive secretary in person by the applicant or by his near relative.

(4) 'One-stop' voting procedure, in office of the county board of elections; Form OS. A voter falling in the category specified in G.S. 163-227.2 may execute Form OS and proceed to vote his absentee ballot in the office of the county board of elections only.

(c) Application forms issued by chairman of county board of elections. The chairman of the county board of elections shall be sole custodian of all absentee ballot application forms, but he, the secretary of the board and the executive secretary of the board, in accordance with one of the following two procedures, shall issue and deliver a single application form, upon request, to a person authorized to sign such an application under the provisions of this section:

(1) The chairman, secretary or executive secretary may deliver the form to a voter personally or to his near relative at the office of the county board of elections for the voter's own use; or

(2) The chairman, secretary or executive secretary may mail the form to a voter for his own use upon receipt of a written request from the voter or his near relative.

At the time he issues an application form, the chairman, secretary or executive secretary of the county board of elections shall number it and write the name of the voter in the space provided therefor at the top of the form. At the same time the chairman, secretary or executive secretary shall insert the name of the voter and the number assigned his application in the register of absentee ballot applications and ballots issued provided for in G.S. 163-228. If the application is requested by the voter's near relative, the chairman, secretary or executive secretary also shall insert that person's name in the register after the name of the voter.

The chairman, secretary or executive secretary shall issue only one application form to a voter or his near relative unless a form previously issued is returned to the chairman, secretary or executive secretary and marked 'Void' by him. In such a situation, the chairman, secretary or executive secretary may issue another application form to the voter or a near relative, but he shall retain the voided application form in the board's records. If the application is requested by the voter's near relative, the chairman, secretary or executive secretary shall write the name of the near relative on the index of near relatives, applying for applications for absentee ballots; the index shall be in such form as may be prescribed or approved by the State Board of Elections; a separate

index shall be maintained for each primary, general or special election in which absentee voting is allowed.

(3) Applications for absentee ballots transmitted by mail or in person. An application for absentee ballots shall be made and signed only by the voter desiring to use them or the voter's near relative and shall be valid only when transmitted to the chairman or executive secretary of the county board of elections by mail or delivered in person by the voter or his near relative.

(4) Who is authorized to request applications for absentee ballots. A voter may personally request an application for absentee ballots or may cause such request to be made through a near relative. For the purpose of this Article, 'near relative' means spouse, brother, sister, parent, grandparent, child, or grandchild.

(5) The form of application for persons applying to vote in a primary under the provisions of this section shall be as designed and prescribed by the State Board of Elections. No voter shall be furnished ballots for voting in a primary except the ballots for candidates for nomination in the primary of the political party with which he is affiliated at the time he makes application for absentee ballots. The official registration records of the county in which the voter is registered shall be proof of the party, if any, with which the voter is affiliated.

(6) The county board of elections shall cause to be stamped or printed on the face of each application for absentee ballots the following legend, and the blank space in the legend to be completed:

'This application is issued for absentee ballots to be voted in the _____ (primary or general or special election) to be held in _____ County on the _____ day of _____, 19__'.

The county board of elections shall not issue any absentee ballots on the basis of any application that does not bear the completed legend.

(7) No applications shall be issued earlier than 60 days prior to the election in which the voter wishes to vote. Nothing herein shall prohibit the county board of elections from receiving written requests for applications earlier than 60 days prior to the election but such applications shall not be mailed or issued to the voter in person earlier than 60 days prior to the election.

(8) Applications for absentee ballots shall be issued only by mail or in the office of the county board of elections to the voter or a near relative authorized to make application. No election official shall issue applications for absentee ballots except in compliance with the provisions stated herein.

"§ 163-227.1. *Second primary; applications for absentee ballots for voting in second primary.*—A voter applying for an absentee ballot for a primary election who will be absent from the county of his residence on the day of the primary and second primary shall be permitted by the county board of elections to indicate such fact on his application and such voter shall automatically be issued an absentee ballot for the second primary if one is called. The county board of elections shall consider such indication a separate application for the

second primary and, at the proper time, shall enter such voter's name in the absentee register along with the listing of other applicants for absentee ballots for the second primary.

In addition, a voter entitled to absentee ballots under the provisions of this Article who did not make application for the primary or who failed to apply for a second primary ballot at the time of application for a first primary ballot may apply for absentee ballots for a second primary not earlier than the day a second primary is called and not later than 5:00 p.m. on the Wednesday prior to the date on which the second primary is held.

All procedures with respect to absentee ballots in a second primary shall be the same as with respect to absentee ballots in a first primary except as otherwise provided by this section.

"§ 163-227.2. *Alternate procedures for requesting application for absentee ballot; 'one-stop' voting procedure in board office.*—(a) A person expecting to be absent from the county in which he is registered during the entire period that the polls are open on the day of an election in which absentee ballots are authorized or is eligible under G.S. 163-227(a)(2) or G.S. 163-227(a)(4) may request an application for absentee ballots, complete the application, receive the absentee ballots, vote and deliver them sealed in a container-return envelope to the county board of elections in the county in which he is registered under the provisions of this section.

(b) Not earlier than 60 days before an election, in which absentee ballots are authorized, in which he seeks to vote and not later than 5:00 p.m. on the Wednesday prior to that election, the voter shall appear in person only at the office of the county board of elections and request that the chairman, a member, or the executive secretary of the board, or an employee of the board of elections, authorized by the board, furnish him with application Form OS as specified in G.S. 163-227. The voter shall complete the application in the presence of the chairman, member, executive secretary or authorized employee of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the chairman, member, executive secretary of the board, or employee of the board of elections, authorized by the board, shall enter the voter's name in the register of absentee ballot applications and ballots issued; shall furnish the voter with the instruction sheets called for by G.S. 163-229(c); shall furnish the voter with the ballots to which the application for absentee ballots applies; and shall furnish the voter with a container-return envelope. The voter thereupon shall comply with the provisions of G.S. 163-231(a) except that he shall deliver the container-return envelope to the chairman, member, executive secretary of the board, or an employee of the board of elections, authorized by the board, immediately after making and subscribing the affidavit printed on the container-return envelope as provided in G.S. 163-229(b). All actions required by this subsection (c) shall be performed in the office of the board of elections. For the purposes of this section only, the chairman, member, executive secretary of the board, or full-time employee, authorized by the board, is authorized to administer the oath required for the affidavit on the container-return envelope, in such case, no seal shall be required, but the chairman, member, executive secretary of the board, or full-time employee, authorized by the board, shall sign and indicate the official title held by him or her, and shall charge no fee of any voter for taking the acknowledgement required under this section.

(d) Only the chairman, member or executive secretary of the board shall keep the voter's application for absentee ballots and the sealed container-return envelope in a safe place, separate and apart from other applications and container-return envelopes. At the first meeting of the board pursuant to G.S. 163-230(2) held after receipt of the application and envelope, the chairman shall comply with the requirements of G.S. 163-230(1) and G.S. 163-230(2) b. and c. If the voter's application for absentee ballots is approved by the board at that meeting, the application form and container-return envelope, with the ballots enclosed, shall be handled in the same manner and under the same provisions of law as applications and container-return envelopes received by the board under other provisions of this Article. If the voter's application for absentee ballots is disapproved by the board, the board shall so notify the voter stating the reason for disapproval by first-class mail addressed to the voter at his residence address or at the address shown in the application for absentee ballots; and the board chairman shall retain the container-return envelope in its unopened condition until the day of the primary or election to which it relates and on that day he shall destroy the container-return envelope and the ballots therein, without, however, revealing the manner in which the voter marked the ballots.

"§ 163-227.3. *Date by which absentee ballots must be available for voting.*—(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State board, to the county boards of elections 60 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State board or the courts not concluded, in which case the State board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State board, to each county by the date on which absentee voting is authorized to commence.

(b) Second primary. The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State board, as quickly as possible after the ballot information has been determined.

"§ 163-228. *Register of absentee ballot applications and ballots issued; a public record.*—The State Board of Elections shall design an official register and provide a source of supply thereof from which the chairman of the county board of elections in each county of the State shall purchase a book to be called the register of absentee ballot applications and ballots issued in which shall be recorded whatever information and official action may be required by this Article.

The register of absentee ballot applications and ballots issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time within 60 days before and 30 days after an election in which absentee ballots were authorized, or at any other time when good and sufficient reason may be assigned for its inspection.

"§ 163-229. *Absentee ballots, container-return envelopes, and instruction sheets.*—(a) Absentee Ballot Form. In accordance with the provisions of G.S. 163-230(3), persons entitled to vote by absentee ballot shall be furnished with regular official ballots. Separate or distinctly marked absentee ballots shall not be used.

(b) Container-return envelope. In time for use not later than 60 days before a statewide primary, general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting

absentee ballots may transmit their marked ballots to the chairman of the county board of elections. Each container-return envelope shall be printed in accordance with the following instructions:

(1) On one side shall be printed an identified space in which shall be inserted the application number of the voter and the following statement which shall be certified by one member of the county board of elections:

'Certification of Election Official

The undersigned election official does by his hand and seal certify that _____ is a registered and qualified voter of _____ County, Precinct # _____ and has made proper application to vote under the Absentee Ballot Law of North Carolina.

_____ (Seal)

Chairman-Member'

(2) On the other side shall be printed the return address of the chairman of the county board of elections and the following affidavit:

'Affidavit of Absentee or Sick Voter

State of _____

County of _____

I, _____, do solemnly swear that I am a resident and registered voter in _____ precinct, _____ County, North Carolina; that on the day of an election, _____, 19____ (check whichever of the following statements is correct.)

( ) I will be absent from the county in which I reside.

( ) Due to sickness or physical disability, or incarceration as a misdemeanant, I will be unable to travel to the voting place in the precinct in which I reside.

I further swear that I made application for absentee ballots, and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instructions.

_____

(Signature of voter)

Sworn to and subscribed before me this _____ day of _____, 19_____.

_____

(Signature and seal of officer administering oath)

My commission (if any) expires

_____

_____

(Title of officer)'

Note: The acknowledgment of a member of the armed forces of the United States may be taken before any commissioned officer or noncommissioned officer of the rank of sergeant in the army, petty officer in the navy, or equivalent rank in other branches of the armed forces.

(c) Instruction sheets. In time for use not later than 60 days before a statewide primary, general or county bond election, the county board of elections shall prepare and print a sufficient number of sheets of instructions on

how voters are to prepare absentee ballots and return them to the chairman of the county board of elections.

"§ 163-230. *Consideration and approval of applications and issuance of absentee ballots.*—The procedure to be followed in receiving applications for absentee ballots, passing upon their validity, and issuing absentee ballots shall be governed by the provisions of this section.

(1) Record of applications received and ballots issued. Upon receipt of a voter's written application for absentee ballots, the chairman of the county board of elections shall promptly enter in the register of absentee ballot applications and ballots issued so much of the following information as he has not already entered there under the provisions of G.S. 163-227(4):

a. Name of voter applying for absentee ballots, and, if applicable, the name and address of the voter's near relative who applied for the application for absentee ballots.
b. Number of assigned voter's application when issued.
c. Precinct in which applicant is registered.
d. Address to which ballots are to be mailed, or that the voter voted pursuant to G.S. 163-227.2.
e. Reason assigned for requesting absentee ballots.
f. Date application for ballots is received by chairman.
g. The voter's party affiliation.

(2) Determination of validity of applications for absentee ballots. The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

a. Required meeting of county board of elections. During the period commencing 60 days before an election, and until 30 days before the election, in which absentee ballots are authorized, the county board of elections shall hold one or more public meetings each week on a day and at an hour to be determined by the board for the purpose of acting on applications for absentee ballots. Each member of the board shall be notified in writing of the day and hour such meetings shall be conducted. During the period opening 30 days before an election in which absentee ballots are authorized and closing at 5:00 p.m. on the Wednesday before the election, the county board of elections shall hold public meetings at 10:00 a.m. on Tuesday and Friday of each week, and it shall also hold public meetings at 10:00 a.m. on the eighth, fifth, third and first days immediately preceding election day. These meetings shall be held at the county courthouse or at the elections board's office at the hour fixed by law. At these meetings the county board of elections shall pass upon applications for absentee ballots.

Upon a majority vote, the county board of elections may hold the required public meetings at an hour other than 10:00 a.m., and it may hold more than one session on each Tuesday and Friday it is required to meet and may set the hours of any additional sessions. If the board desires to exercise either or both of the options granted by the preceding sentence, it shall do so prior to the date on which it is required to hold its first public meeting under the provisions of this subdivision and in

time to give the notice required by the fourth paragraph of this lettered portion of this subdivision; thereafter, no change shall be made in the hours fixed for the board's public meetings on absentee ballot applications.

It shall not be necessary for the chairman of the county board of elections to give notice to other board members of weekly meetings of the board which are fixed as to time and place by this section.

If the county board of elections changes the time of holding its Tuesday and Friday meetings or provides for additional meetings on Tuesdays and Fridays in accordance with the terms of this subdivision, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county, and a notice thereof shall be posted at the courthouse door of the county, at least one week prior to the time fixed for holding the first meeting under this subdivision.

The county board of elections shall not be required to hold any of the meetings prescribed by this subdivision unless, since its last preceding meeting, it actually has received one or more applications for absentee ballots which it has not passed upon. When no meeting is to be held for this reason, the chairman shall notify each of the other members of the county board of elections that the scheduled public meeting will not be held and state the reasons for its cancellation.

b. Procedure at required meeting; making determination. At each public meeting of the county board of elections the chairman shall present for consideration, and the board shall pass upon, the validity of all applications for absentee ballots received since its last preceding public meeting held for that purpose. In connection with each application received by mail the chairman shall also present the container-return envelope in which the application was received. At each such meeting any registered voter of the county shall be heard and allowed to present evidence in opposition to, or in favor of, the issuance of absentee ballots to any voter making application for them.

The county board of elections may consider the registration records as evidence of the voter's signature, if available, and as any other evidence that may be necessary to pass upon such an application, including the party affiliation of a voter seeking to vote in a primary.

If the board finds that the applicant is a qualified voter of the county, that he is registered in the precinct stated in his application, that the assertions in his application are true, and that his application is in proper form, it shall approve his application for absentee ballots.

c. Record of board's determination; decision final. At the time the county board of elections makes its decision on an application for absentee ballots, the chairman shall enter in the appropriate column in the register of absentee ballot applications and ballots issued opposite the name of the applicant a notation of whether his application was 'Approved' or 'Disapproved'.

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest.

(3) Delivery of absentee ballots and container-return envelope to applicant. When the county board of elections approves an application for absentee ballots, the chairman shall promptly issue and transmit them to the voter only, and not to his near relative, in accordance with the following instructions:

a. On the top margin of each ballot the applicant is entitled to vote, the chairman shall write or type the words 'Absentee Ballot No. _____' and insert in the blank space the number assigned the applicant's application in the register of applications for absentee ballots and ballots issued. He shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter.

b. The chairman shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, his application number and the designation of the precinct in which the voter is registered. The chairman shall leave the container-return envelope holding the ballots unsealed.

c. The chairman shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope addressed to the applicant at the post office address stated in his application, seal the envelope, and mail it at the expense of the county board of elections, or deliver it to the applicant in person: Provided, that in case of approval of an application received after 5:00 p.m. on the Wednesday before the election under the provisions of G.S. 163-227(b)(3), in lieu of transmitting the ballots to the applicant in person or by mail, the chairman may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative of the voter.

"§ 163-231. *Voting absentee ballots and transmitting them to chairman of the county board of elections.*—(a) Procedure for voting absentee ballots. In the presence of an officer authorized to administer oaths, having an official seal, the voter shall:

(1) mark his ballots, or cause them to be marked in his presence according to his instructions;

(2) fold each ballot separately, or cause each of them to be folded in his presence;

(3) place the folded ballots in the container-return envelope and securely seal it, or have this done in his presence;

(4) make and subscribe the affidavit printed on the container-return envelope according to the provisions of G.S. 163-229(b).

The officer administering the oath shall then complete the form on the container-return envelope and affix his seal, if any, in the place indicated. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the chairman of the county board of elections who issued the ballots.

In the case of voters who are members of the armed forces of the United States, as defined in G.S. 163-245, the signature of any commissioned officer or noncommissioned officer of the rank of sergeant in the army, petty officer in the navy, or equivalent rank in other branches of the armed forces, as a witness to the execution of any certificate required by this or any other section of this Article to be under oath shall have the force and effect of the jurat of an officer with a seal fully authorized to take and administer oaths in connection with absentee ballots.

(b) Transmitting executed absentee ballots to chairman of county board of elections. The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the chairman of the county board of elections who issued them as follows: All ballots issued under the provisions of Articles 20 and 21 of this Chapter shall be transmitted by mail, at the voter's expense, or delivered in person, or by the voter's spouse, brother, sister, parent, grandparent, child or grandchild not later than 5:00 p.m. on the day before the statewide primary or general election or county bond election. If such ballots are received later than that hour, they shall not be accepted for voting.

"§ 163-232. *Certified list of executed absentee ballots, distribution of list.*— The chairman of the county board of elections shall prepare, or cause to be prepared, a list in at least quadruplicate, of all absentee ballots returned to the county board of elections to be counted, which have been approved by the county board of elections. At the end of the list, the chairman shall execute the following certificate under oath:

'State of North Carolina
County of _____

I, _____, chairman of the _____ County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the ____ day of _____, 19__, which have been approved by the county board of elections. I further certify that I have issued ballots to no other persons than those listed herein, whose original applications or original applications made by near relatives are filed in the office of the county board of elections; and I further certify that I have not delivered ballots for absentee voting to any person other than the voter himself, by mail or in person, except as provided by law, in the case of approved applications received after 5:00 p.m. on the Wednesday before the election.

This the _____ day of _____, 19__.

_____
(Signature of chairman of county board of elections)

Sworn to and subscribed before me this _____ day of _____, 19__. Witness my hand and official seal.

_____
(Signature of officer administering oath)

_____

(Title of officer)'

No earlier than 3:00 p.m. on the day before the election and no later than 10:00 a.m. on election day, the chairman shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as 'first-class' mail to the State Board of Elections, Post Office Box 1166, Raleigh, N. C. 27602. He shall retain one copy in the board office for public inspection and he shall cause two copies of the appropriate precinct list to be delivered to the registrar of each precinct in the county. The chairman shall be authorized to call upon the sheriff of the county to distribute the list to the precincts. In addition the chairman shall, upon request, provide a copy of the complete list to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county.

The registrar shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163-89.

After the last person has voted, the registrar shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration record. If such person is already recorded as having voted in that election, the registrar shall enter a challenge.

All lists required by this section shall be retained by the county board of elections for a period of four years after which they may then be destroyed.

"§ 163-233. *Applications for absentee ballots; how retained.*—The chairman of the county board of elections shall retain, in a safe place, the original of all applications made for absentee ballots and shall make them available to inspection by the State Board of Elections or to any person upon the directive of the State Board of Elections.

All applications for absentee ballots shall be retained by the county board of elections for a period of one year after which they may be destroyed.

"§ 163-233.1. *Withdrawal of absentee ballots not allowed.*—No person shall be permitted to withdraw an absentee ballot after such ballot has been mailed to or returned to the county board of elections.

"§ 163-234. *Counting absentee ballots by county board of elections.*—All absentee ballots returned to the chairman or executive secretary of the county board of elections in the container-return envelopes shall be retained by the chairman to be counted by the county board of elections as herein provided.

(1) Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed container-return envelope shall be counted.

(2) The county board of elections shall meet at 5:00 p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided he shall not in any manner interfere with the election officials in the discharge of their duties.

Provided, that the county board of elections is authorized to begin counting absentee ballots between the hours of 2:00 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election wherein the hour and

place of counting absentee ballots shall be stated. A copy of the resolutions shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity. The board shall not announce the result of the count before 7:30 p.m.

(3) The counting of absentee ballots shall not commence until a majority and at least one board member of each political party represented on the board is present and such fact is publicly declared and entered in the official minutes of the county board.

(4) The county board of elections may employ such assistants as deemed necessary to count the absentee ballots, but each board member present shall be responsible for and observe and supervise the opening and tallying of the ballots.

(5) As each ballot envelope is opened, the board shall cause to be entered into a pollbook designated 'Pollbook of Absentee Voters' the name of the absentee voter. Preserving secrecy, the ballots shall be placed in the appropriate ballot boxes, at least one of which shall be provided for each type of ballot.

After all ballots have been placed in the boxes, the counting process shall begin.

If a challenge transmitted to the board on canvass day by a registrar is sustained, the ballots challenged and sustained shall be withdrawn from the appropriate boxes, as provided in G.S. 163-89(e).

As soon as the absentee ballots have been counted and the names of the absentee voters entered in the pollbook as required herein, the board members and assistants employed to count the absentee ballots shall each sign the pollbook immediately beneath the last absentee voter's name entered therein. The chairman shall be responsible for the safekeeping of the pollbook of absentee voters.

(6) Upon completion of the counting process the board members shall cause the results of the tally to be entered on the absentee abstract prescribed by the State Board of Elections. The abstract shall be signed by the members of the board in attendance and the original mailed immediately to the State Board of Elections, Raleigh, North Carolina 27602.

(7) One copy of the absentee abstract shall be retained by the county board of elections and the totals appearing thereon shall be added to the final totals of all votes cast in the county for each office as determined on the official canvass.

(8) In the event a political party does not have a member of the county board of elections present at the 5:00 p.m. meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party chairman of said absent member, or a member of the party's county executive committee, is in attendance. Such person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an 'observer'.

(9) The county board of elections shall retain all container-return envelopes and absentee ballots, in a safe place, for at least four months, and longer if any contest is pending concerning the validity of any ballot.

"§ 163-236. *Violations by chairman of county board of elections.*—The chairman of the county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes

for absentee ballots. He shall issue and deliver blank applications for absentee ballots in strict accordance with the provisions of G.S. 163-277(4). The issuance of ballots to persons whose applications for absentee ballots have been approved by the county board of elections under the provisions of G.S. 163-230(3) is the responsibility and duty of the chairman of the county board of elections.

It shall be the duty of the chairman of the county board of elections to keep current all records required of him by this Article and to make promptly all reports required of him by this Article.

The willful violation of the terms of this section shall constitute a misdemeanor, and upon conviction, the offender shall be fined not less than one hundred dollars ($100.00), or imprisoned not less than 60 days, or both, in the discretion of the court.

"§ 163-237. *Certain violations of absentee ballot law made criminal offenses.*—(a) False statements under oath made misdemeanor. If any person shall willfully and falsely make any affidavit or statement, under oath, which affidavit or statement under oath, is required to be made by the provisions of this Article, he shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars ($100.00), or imprisoned for not less than 60 days, or both, in the discretion of the court.

(b) False statements not under oath made misdemeanor. If any person, for the purpose of obtaining or voting any official ballot under the provisions of this Article, shall willfully sign any printed or written false statement which does not purport to be under oath, or which, if it purports to be under oath, was not duly sworn to, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars ($100.00), or imprisoned not less than 60 days, or both, in the discretion of the court.

(c) Fraud in connection with absentee vote; forgery. Any person attempting to aid and abet fraud in connection with any absentee vote cast or to be cast, under the provisions of this Article, shall be guilty of a misdemeanor, and, upon conviction, be fined or imprisoned, in the discretion of the court. Any person attempting to vote by fraudulently signing the name of a regularly qualified voter shall be guilty of forgery, and be punished accordingly.

(d) Violations not otherwise provided for made misdemeanors. If any person shall willfully violate any of the provisions of this Article, or willfully fail to comply with any of the provisions thereof, for which no other punishment is herein provided, he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred dollars ($100.00), or imprisoned not less than six months, or both, in the discretion of the court.

"§ 163-238. *Reports of violations to district attorneys.*—It shall be the duty of the State Board of Elections to report to the district attorney of the appropriate prosecutorial district, any violation of this Article, or the failure of any person charged with a duty under its provisions to comply with and perform that duty, and it shall be the duty of the district attorney to cause such a person to be prosecuted therefor.

"§ 163-239. *Article 21 relating to absentee voting by servicemen and certain civilians not applicable.*—Except as otherwise provided therein, Article 21 of this Chapter, relating to absentee registration and voting by servicemen and certain civilians, shall not apply to or modify the provisions of this Article."

Sec. 2. This act shall become effective with respect to elections held on or after September 1, 1977.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 606 CHAPTER 470

AN ACT TO AMEND G.S. 20-141 TO DEFINE THE DEGREE OF LIABILITY PLACED UPON A MOTORIST WHO FAILS TO STOP HIS VEHICLE WITHIN THE RADIUS OF ITS HEADLIGHTS OR THE RANGE OF HIS VISION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-141 is hereby amended by adding a new subsection to read as follows:

"(m) Notwithstanding any other provision contained in G.S. 20-141 or any other statute or law of this State, the failure of a motorist to stop his vehicle within the radius of its headlights or the range of his vision shall not be held negligence per se or contributory negligence per se."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 620 CHAPTER 471

AN ACT TO PROHIBIT THE USE OF STEEL TRAPS IN CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to use or set any steel jaw leg hold trap in Cumberland County; provided that nothing in this act shall prohibit the use of steel or metal jaw traps by county or State public health officials or their designated agents in order to control the spread of disease when the use of such steel or metal jaw traps has been declared necessary by the Department of Human Resources.

Sec. 2. All law enforcement officers, including enforcement officers of the Wildlife Resources Commission, shall have jurisdiction to enforce the provisions of this act.

Sec. 3. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction may be fined a sum not to exceed one hundred dollars ($100.00) or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 4. Provided, however, the provisions of this act shall not apply to a person setting traps on his or her own land.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 672 CHAPTER 472

AN ACT TO EXCLUDE RANDOLPH COUNTY FROM THE PROVISIONS REGULATING THE PRACTICE OF COSMETOLOGY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-1 is hereby amended on line 9 of the second paragraph by adding the word and punctuation "Randolph," immediately following the word "Onslow" and immediately preceding the word "Richmond".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 927 CHAPTER 473

AN ACT TO AUTHORIZE SAVINGS AND LOAN ASSOCIATIONS TO UTILIZE OFF-PREMISES ELECTRONIC INFORMATION AND FUNDS TRANSFER TERMINALS.

The General Assembly of North Carolina enacts:

Section 1. The heading of G.S. 54-33.3 is amended to read as follows: "*Certain powers granted to State associations.*"

Sec. 2. G.S. 54-33.3 is amended by adding a new subdivision (4) to read as follows:

"(4) Establish off the premises of any principal office, branch or window a customer communications terminal, point-of-sale terminal, automated teller machine, automated or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which funds or information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from an association terminal or other terminals controlled or used by or with other parties; and the establishment and use of such a device or machine shall not be deemed a branch or teller's window, and the capital requirements and standards for approval of a branch or teller's window, as set forth in the relevant statutes, and regulations, shall not be applicable to the establishment of any such off-premises terminal, device or machine, and that savings and loan associations, may through mutual consent and agreement, share such terminals, devices or machines. Provided further, that savings and loan associations, may through mutual consent and agreement, share on-premises unmanned automated teller machines and cash dispensers. Subject to the direction and approval of the Savings and Loan Commission, the Administrator of the Savings and Loan Division may prescribe rules and regulations with regard to the application for permission for the use, maintenance and supervision of said terminals, devices or machines."

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 1020

CHAPTER 474

AN ACT TO AMEND G.S. 153A-248 CONCERNING THE AUTHORITY OF A COUNTY TO APPROPRIATE REVENUES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-248(2) is amended by deleting the word "and" in line two thereof, immediately after the word "work" and before the word "training" and inserting in lieu thereof the word "or".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 1040

CHAPTER 475

AN ACT TO AMEND G.S. 163-302 RELATING TO MUNICIPAL ELECTIONS TO CLARIFY PERIOD FOR ABSENTEE BALLOT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-302 is amended by rewriting to read:

"§ 163-302. *Absentee voting.*—(a) In any municipal election, including a primary or general election or referendum, conducted by the county board of elections, absentee voting may, upon resolution of the municipal governing body, be permitted. Such resolution must be adopted no later than 60 days prior to an election in order to be effective for that election. Any such resolution shall remain effective for all future elections unless repealed no later than 60 days before an election. A copy of all resolutions adopted under this section shall be filed with the State Board of Elections and the county board of elections conducting the election within 10 days of passage in order to be effective. Absentee voting shall not be permitted in any municipal election unless such election is conducted by the county board of elections.

(b) The provisions of Articles 20 and 21 of this Chapter shall apply to absentee voting in municipal elections, except the earliest date by which absentee ballots shall be required to be available for absentee voting in municipal elections shall be 30 days prior to the date of the municipal primary or election or as quickly following the filing deadline specified in G.S. 163-291(2) or G.S. 163-294.2(c) as the county board of elections is able to secure the official ballots."

Sec. 2. Nothing herein shall render void any resolution on file with the State Board of Elections as of the effective date of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 1165 **CHAPTER 476**

AN ACT TO PROVIDE FOUR-YEAR TERMS OF OFFICE FOR THE MAYOR AND BOARD OF COMMISSIONERS FOR THE TOWN OF MOUNT OLIVE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 201, Private Laws of 1905, as amended by Chapter 127, Private Laws of 1927, and Chapter 331, Session Laws of 1947, is hereby amended by rewriting Section 3 to read as follows:

"Sec. 3. The elected officials of the Town of Mount Olive shall be a mayor and a board of commissioners consisting of five members. The mayor and members of the board of commissioners shall be elected by the qualified voters of the town for a term of four years, beginning with the regular municipal elections to be held in November 1977. Town elections shall be conducted on a nonpartisan basis and the results determined by plurality, as provided by G.S. 163-292."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 1212 **CHAPTER 477**

AN ACT TO GRANT THE TOWN OF FARMVILLE THE AUTHORITY TO APPLY ITS LOCAL ORDINANCE FOR CONTROL OF EROSION AND SEDIMENTATION WITHIN ITS EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. The Town of Farmville is hereby authorized, upon the adoption and approval of a local erosion and sedimentation control ordinance pursuant to G.S. 113A-60, to apply such ordinance within its extraterritorial jurisdiction. Such extraterritorial jurisdiction shall be conducted in accordance with Part 1, Article 19, Chapter 160A of the General Statutes.

Sec. 2. This act shall apply only to the Town of Farmville and is supplementary to the other powers and authority possessed by the Town of Farmville.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 3rd day of June, 1977.

H. B. 1045 **CHAPTER 478**

AN ACT TO AMEND CHAPTER 160A OF THE GENERAL STATUTES RELATING TO ANNEXATION BY MUNICIPALITIES IN PAMLICO COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-44 is hereby amended by adding a new sentence at the end of the first paragraph to read:

"No territory in Pamlico County may be annexed under the provisions of this Part by any town or city with a population of 1,000 or less according to the most recent federal decennial census."

Sec. 2. G.S. 160A-25 is amended by adding at the end thereof the following new paragraph:

"No territory in Pamlico County may be annexed under the provisions of G.S. 160A-24 through G.S. 160A-30 by any town or city with a population of 1,000 or less, according to the most recent federal decennial census, unless the persons living in the area to be annexed vote in favor of annexation and the governing body shall not adopt an annexation ordinance until after a favorable vote has been obtained in the area to be annexed."

Sec. 3. G.S. 160A-360 is amended by adding a new subsection (k) at the end thereof to read:

"(k) No town or city in Pamlico County having a population of 1,000 or less, according to the most recent federal decennial census, shall exercise any extraterritorial jurisdiction or powers outside its corporate limits pursuant to the provisions of this Article."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

H. B. 1256 CHAPTER 479

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SARATOGA.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 490 of the Private Laws of the 1939 Session is hereby amended by rewriting the section to read as follows:

"Sec. 3. That the officers of said corporation shall be a mayor and three commissioners, who shall hold office for a term of two years. The said commissioners shall have power to pass bylaws, rules and regulations for the good government of the town not inconsistent with the laws of the State and the United States, and to levy and collect a tax on all subjects of State taxation, and to impose fines for violation of town ordinances and collect the same, and also levy and collect such license and privilege taxes as are provided by laws."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

H. B. 1310 CHAPTER 480

AN ACT TO VALIDATE THE RECORDING OF CERTAIN MAPS IN YADKIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of North Carolina G.S. 47-30.1 the maps and plats hereinafter listed shall be deemed to be duly proved, probated and recorded and to be valid.

Sec. 2. This act shall apply to the following maps and plats in the Office of Register of Deeds of Yadkin County, North Carolina:

All plats registered on or before May 6, 1977, as recorded in Book of Plats 1, page 1 through Book of Plats 5, page 96.

Sec. 3. Reference in any written instrument heretofore or hereafter executed where the intent appears to be to describe any particular real estate by reference to any map or plat specified in Section 2 of this act shall have the

effect of incorporating in said written instrument the description of said premises as portrayed on said map or plat.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 197 CHAPTER 481

AN ACT TO AMEND G.S. 74B-3 RELATING TO THE "PRIVATE PROTECTIVE SERVICES".

The General Assembly of North Carolina enacts:

Section 1. G.S. 74B-3(b) as the same appears in the 1975 Replacement Volume 2C of the General Statutes is hereby amended by adding a new subsection (9) at the end thereof to read as follows:

"(9) Persons, firms or corporations operating under a Motor Carrier Permit or Certificate issued by the North Carolina Utilities Commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 424 CHAPTER 482

AN ACT TO REDEFINE THE PRACTICE OF OPTOMETRY CONSISTENT WITH MODERN ADVANCES IN SCIENCE AND OPTOMETRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-114 as the same appears in the 1975 Replacement Volume 2C of the General Statutes is hereby amended and rewritten to read as follows:

"§ 90-114. *Optometry defined.*—Any one or any combination of the following practices shall constitute the practice of optometry:

(1) the examination of the human eye by any method, other than surgery, to diagnose, to treat, or to refer for consultation or treatment any abnormal condition of the human eye and its adnexa; or

(2) the employment of instruments, devices, pharmaceutical agents and procedures, other than surgery, intended for the purposes of investigating, examining, treating, diagnosing or correcting visual defects or abnormal conditions of the human eye or its adnexa; or

(3) the prescribing and application of lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

Provided, however, in using or prescribing pharmaceutical agents, other than topical pharmaceutical agents within the definition hereinabove set out which are used for the purpose of examining the eye, the optometrist so using or prescribing shall communicate and collaborate with a physician duly licensed to practice medicine in North Carolina designated or agreed to by the patient."

Sec. 2. G.S. 90-118 as the same appears in the 1975 Replacement Volume 2C of the General Statutes and in the 1975 Cumulative Supplement thereto is hereby amended by adding at the end thereof a new subsection (e) to read as follows:

"(e) The board shall not license any person to practice optometry in the State of North Carolina beyond the scope of the person's educational training as determined by the board. No optometrist presently licensed in this State shall prescribe and use pharmaceutical agents in the practice of optometry unless and until he (i) has submitted to the board evidence of satisfactory completion of all educational requirements established by the board to prescribe and use pharmaceutical agents in the practice of optometry and (ii) has been certified by the board as educationally qualified to prescribe and use pharmaceutical agents.

Provided, however, that no course or courses in pharmacology shall be approved by the board unless (i) taught by an institution having facilities for both the didactic and clinical instruction in pharmacology and which is accredited by a regional or professional accrediting organization that is recognized and approved by the Council on Postsecondary Accreditation or the United States Office of Education and (ii) transcript credit for the course or courses is certified to the board by the institution as being equivalent in both hours and content to those courses in pharmacology required by the other licensing boards in this Chapter whose licensees or registrants are permitted the use of pharmaceutical agents in the course of their professional practice."

Sec. 3. G.S. 90-118.10 as the same appears in the 1975 Replacement Volume 2C of the General Statutes is hereby amended by adding at the end thereof a new paragraph to read as follows:

"In issuing a certificate of renewal, the board shall expressly state whether such person, otherwise licensed in the practice of optometry, has been certified to prescribe and use pharmaceutical agents."

Sec. 4. G.S. 90-118.11 as the same appears in the 1975 Replacement Volume 2C of the General Statutes is hereby amended by inserting in line 8 thereof immediately following the word "refused" and before the semicolon the words:

"; or shall practice or attempt to practice optometry by means or methods that the board has determined is beyond the scope of the person's educational training".

Sec. 5. Article 6 of Chapter 90 of the General Statutes is hereby amended by inserting therein a new section G.S. 90-125.1 to read as follows:

"§ 90-125.1. *Filling prescriptions.*—Legally licensed druggists of this State may fill prescriptions of optometrists duly licensed by the North Carolina State Board of Examiners in Optometry to prescribe, apply or use pharmaceutical agents."

Sec. 6. G.S. 90-87(22)(a) as the same appears in the 1975 Replacement Volume 2C of the General Statutes is hereby amended by inserting in line 1 thereof immediately following the word "dentist," and preceding the word "veterinarian" the word "optometrist,".

Sec. 7. The provisions of this act are applicable only to those individuals licensed pursuant thereto and shall not restrict, expand, or otherwise alter those other practices or acts governed by Chapter 90 of the General Statutes.

Sec. 8. This act shall become effective on and after July 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 475 CHAPTER 483

AN ACT TO AMEND G.S. 139-28 TO INCREASE THE POSSIBLE TERM OF YEARS FOR WATERSHED DISTRICT DEBTS.

Whereas, watershed improvement districts are presently prohibited from contracting for debts for a term of more than 20 years; and

Whereas, the Farmers Home Administration will make loans extending for 40 years, and these loans constitute a valuable resource to watershed improvement districts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 139-28, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is hereby amended by striking out the sentence "No debt shall be contracted for a term of more than 20 years" in lines 8 and 9, and substituting therefor the following sentence: "No debt shall be contracted for a term of more than 40 years."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 497 CHAPTER 484

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE BUNCOMBE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Buncombe County Board of Education shall consist of seven members who shall serve for staggered terms of four years each, as herein provided, and, for purposes of electing members of said board, the Buncombe County School Administrative Unit shall consist of all of Buncombe County outside of and excluding the City of Asheville School Administrative Unit and shall include and is divided into seven districts bounded and described as follows:

District #1, A. C. Reynolds School Attendance Zone
District #2, T. C. Roberson School Attendance Zone
District #3, Enka School Attendance Zone
District #4, Clyde Erwin School Attendance Zone
District #5, North Buncombe School Attendance Zone
District #6, Charles D. Owen School Attendance Zone
District #7, Buncombe County School Administrative Unit at large.

As the terms of the present members of the Buncombe County Board of Education expire, their successors shall be elected for terms of four years.

Sec. 2. In the primary and general election to be held for county officers in Buncombe County in 1978 and every two years thereafter candidates shall be nominated and elected for each of the districts by the voters of the Buncombe County School Administrative Unit, to succeed the members of the Board of Education as their terms expire. Candidates shall be residents of the district for which they seek election.

Sec. 3. The primary and election shall be partisan and shall be held by the Buncombe County Board of Elections in accordance with the general law regulating primaries and elections in the State.

Sec. 4. A vacancy on the board of education occurring by death, resignation, removal of residency from the district or for any other cause shall be filled for the unexpired term by a person appointed by the senior resident judge of superior court. The person appointed shall be of the same political party and must be a resident in the same district as the person causing the vacancy.

Sec. 5. Persons elected to the board of education shall qualify on the first Monday in December next, following their election. At the first meeting of the new board of education in December after each election, the members shall organize by electing one member as chairman who shall serve in such position for one year. The chairman shall preside at the meeting of the board. In the event of the chairman's absence, the board shall appoint a member to serve as temporary chairman.

Sec. 6. The chairman of the Buncombe County Board of Education shall be compensated for his services in the amount of one hundred fifty dollars ($150.00) per month, and the other members shall receive one hundred dollars ($100.00) per month.

Sec. 7. Chapter 274, Session Laws of 1967 and Chapter 532, Session Laws of 1975, are hereby repealed.

Sec. 8. This act shall become effective upon certification by the Buncombe County Board of Elections of its approval by a majority of the qualified voters in the Buncombe County School Administrative Unit at an election held at the time of the next statewide election following the passage of this bill.

The question on the ballot shall be:

"☐ FOR election of the members of the Buncombe County Board of Education on a partisan basis.

☐ AGAINST election of the members of the Buncombe County Board of Education on a partisan basis."

Should the majority of the vote be against the election of members of the Buncombe County Board of Education on a partisan basis, this act shall not become effective.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 502 CHAPTER 485

AN ACT TO AMEND G.S. 146-25.1 PERTAINING TO DEPARTMENT OF ADMINISTRATION'S AUTHORITY OVER BID PROPOSALS FOR LEASING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-25.1 as it appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby rewritten to read as follows:

"§ 146-25.1. *Proposals to be secured for leases.*—(a) If pursuant to G.S. 146-25, the Department of Administration determines that it is in the best interest of the State to lease or rent land and the rental is estimated to exceed seven thousand five hundred dollars ($7,500) per year or the term will exceed three years, the department shall require the State agency desiring to rent land to

prepare and submit for its approval a set of specifications for its needs. Upon approval of specifications, the department shall prepare a public advertisement. The State agency shall place such advertisement in a newspaper of general circulation in the county for proposals from prospective lessors of said land and shall make such other distribution thereof as the department directs. The advertisement shall be run for at least five consecutive days, and shall provide that proposals shall be received for at least seven days from the date of the last advertisement in the State Property Office of the department. The provisions of this section do not apply to property owned by governmental agencies and leased to other governmental agencies.

(b) The department may negotiate with the prospective lessors for leasing of the needed land, taking into account not only the rental offered, but the type of land, the location, its suitability for the purposes, services offered by the lessor, and all other relevant factors.

(c) The Department of Administration shall present the proposed transaction to the Council of State for its consideration as provided by this Article. In the event the lowest rental proposed is not presented to the Council of State, that body may require a statement of justification, and may examine all proposals."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 547 CHAPTER 486

AN ACT TO CONFORM THE REPLACEMENT PERIOD FOR INVOLUNTARILY CONVERTED REAL PROPERTY HELD FOR PRODUCTIVE USE OR INVESTMENT, FOR STATE INCOME TAX PURPOSES, TO THAT PROVIDED FOR FEDERAL INCOME TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-144.1(a)(2)b. is amended, by rewriting the same, to read as follows:

"b. The period referred to in subparagraph a. shall be the period beginning with the date of the disposition of the converted property, or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is the earlier, and end:

1. Two years after the close of the first taxable year in which any part of the gain upon the conversion is realized, or

2. Subject to such terms and conditions as may be specified by the Secretary of Revenue, at the close of such later date as the Secretary of Revenue may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the Secretary of Revenue may prescribe.

3. In the case of involuntary conversion of real property held for productive use in a trade or business or for investment, paragraph 1. of subdivision (a)(2)b. of the section shall be applied by substituting 'Three years' for 'Two years'."

Sec. 2. This act shall become effective with respect to taxable years beginning on and after January 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 548 **CHAPTER 487**

AN ACT TO PROVIDE TAX INCENTIVES TO ENCOURAGE PRESERVATION OF HISTORIC STRUCTURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(13) is amended by adding at the end thereof a new subsection c., to read as follows:

"c. Rehabilitating certain certified historic structures, but only to the extent allowed by Section 191 of the Internal Revenue Code."

Sec. 2. This act shall be effective with respect to taxable years beginning on and after January 1, 1977.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 587 **CHAPTER 488**

AN ACT TO AMEND G.S. 105-163.6 RELATING TO WAGES WITHHELD FOR INCOME TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Article 4A of Subchapter I of Chapter 105 of the General Statutes is hereby amended by changing G.S. 105-163.6 as follows:

(a) by changing the period at the end of the last sentence in subsection (b) to a semicolon and by adding the following after the semicolon: "except that the returns and payments for the month of December shall be made on or before the 31st day of the following month";

(b) by changing the period at the end of the last sentence in subsection (c) to a semicolon and by adding the following after the semicolon: "except that the returns and payments for the month of December shall be made on or before the 31st day of the following month";

(c) by changing the period at the end of the first paragraph of subsection (d) to a semicolon and by adding the following after the semicolon: "except that the returns and payments for the month of December shall be made on or before the 31st day of the following month".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

S. B. 594 **CHAPTER 489**

AN ACT TO AUTHORIZE THE TOWN OF SMITHFIELD TO EXTEND ITS ZONING AUTHORITY OVER WEST SMITHFIELD SANITARY DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. The Town of Smithfield is authorized to exercise zoning authority pursuant to Part 3, Article 19, Chapter 160A of the General Statutes, over West Smithfield Sanitary District, as now or hereafter constituted, without the approval of the Johnston County Board of Commissioners. The zoning authority shall be exercised throughout the sanitary district in accordance with a comprehensive plan to the exclusion of all other zoning authority of any local governmental unit.

Sec. 2. The planning board or commission established by the Town of Smithfield pursuant to G.S. 160A-361 shall include three members and one alternate member to be recommended by the West Smithfield Sanitary District Board.

Sec. 3. The provisions of Part 1 and Part 3, Article 19, Chapter 160A of the General Statutes, shall be applicable to the exercise of the zoning authority except as otherwise provided by this act.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

H. B. 492 CHAPTER 490

AN ACT TO REPEAL ARTICLES 27 AND 29 OF CHAPTER 115 OF THE GENERAL STATUTES AND TO ENACT ARTICLES 27A AND 29A TO PROVIDE AN EXPANDED LEGAL BASIS FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Article 27 of Chapter 115 of the General Statutes is repealed in its entirety.

Sec. 2. Chapter 115 of the General Statutes is amended by adding a new Article to read and be designated as follows:

"ARTICLE 27A.

"Vocational Education Programs.

"§ 115-229.1. *Statement of purpose.*—It is the intent of the General Assembly that vocational education be an integral part of the educational process. The State Board of Education is authorized and directed to administer through local boards of education a comprehensive program of vocational education which shall be available to all students who desire it in the public secondary schools of this State. The purposes of vocational education in North Carolina public secondary schools shall be:

(1) to prepare individuals for paid or unpaid employment in recognized occupations, new occupations, and emerging occupations. (Vocational Skill Development.);

(2) to prepare individuals for participation in advanced or highly skilled vocational and technical education. (Preparation for Advanced Education.); and

(3) to assist individuals in the making of informed and meaningful occupational choices. (Pre-Vocational - Introductory.)

It is also legislative intent to authorize the State Board of Education to support appropriate vocational education instruction and related services for individuals who have other specialized vocational education needs which can be fulfilled through a comprehensive vocational education program as designated by State Board of Education policy or federal vocational education legislation.

"§ 115-229.2. *Definitions.*—The State Board of Education is authorized and directed to provide appropriate definitions to vocational education programs, services, and activities in grades 7-12 not otherwise included in this Article:

(1) 'Comprehensive vocational education' means instructional programs, services, or activities directly related to one's preparation for and placement in employment, for advanced technical education, or for the making of informed and meaningful occupational choices.

(2) 'Vocational skill development' means a program, service, or activity designed to prepare individuals for paid or unpaid employment as semi-skilled or skilled workers, technicians, or professional-support personnel in recognized occupations and in new and emerging occupations including occupations or a trade, technical, business, health, office, homemaking, homemaking related, agricultural, distributive, and other nature. Instruction is designed to fit individuals for initial employment in a specific occupation or a cluster of closely related occupations in an occupational field. Such instruction includes education in manipulative skills, theory, auxiliary information, and other associated knowledges.

(3) 'Preparation for advanced education' means a program, service, or activity designed to prepare individuals for participation in advanced or highly skilled post-secondary and technical education programs leading to employment in specific occupations or a cluster of closely related occupations and for participation in vocational education teacher education programs.

(4) 'Pre-vocational - introductory' means an instructional program, service, or activity designed to familiarize individuals with the broad range of occupations for which special skills are required and the requisites for careers in such occupations.

"§ 115-229.3. *Administration of vocational education.*—The State Board of Education shall be the sole State agency for the State administration of vocational education at all levels, shall be designated as the State Board of Vocational Education, and shall have all necessary authority to cooperate with any and all federal agencies in the administration of national acts assisting vocational education, to administer any legislation pursuant thereto enacted by the General Assembly of North Carolina, and to cooperate with local boards of education in providing vocational and technical education programs, services, and activities for youth and adults residing in the area under their jurisdiction.

"§ 115-229.4. *Duties of the State Board of Education.*—In carrying out its duties, the State Board of Education shall have full authority to develop and implement such policies, rules, regulations, and procedures as necessary to ensure vocational education programs of high quality. The State Board of Education shall prepare a Master Plan for Vocational Education. Such plan, to be updated periodically, shall ensure minimally that:

(1) articulation will occur with institutions, agencies, councils, and other organizations having responsibilities for manpower development;

(2) business, industrial, agricultural, and lay representatives have been utilized in the development of decisions affecting vocational education programs and services;

(3) public hearings are conducted annually to afford the public an opportunity to express their views concerning the State board's plan to suggest changes in the plan;

(4) the plan describes the State's policy for vocational education and the system utilized for the delivery of vocational education programs, services, and activities;

(5) a professionally and occupationally qualified staff is employed and organized in a manner to assure efficient and effective State leadership for vocational education. Provisions will be made for such functions as: planning, administration, supervision, curriculum development, research and evaluation, and such others as the State board may direct;

(6) an appropriate supply of qualified personnel is trained for program expansion and replacements through cooperative arrangements with institutions of higher education and other institutions or agencies, including where necessary financial support of programs and curriculums designed for the preparation of vocational administrators, supervisors, coordinators, instructors, and support personnel;

(7) minimum standards shall be prescribed for personnel employed at the State and local levels;

(8) local boards of education submit to the State Board of Education a local plan for vocational education which has been prepared in accordance with the procedures set forth in the Master Plan for Vocational Education;

(9) appropriate minimum standards for vocational education programs, services, and activities shall be established, promulgated, supervised, monitored, and maintained. Such standards shall specify such characteristics as program objectives, skill competencies, course sequence, program duration, class size, supervised on-the-job experiences, qualifications of instructors, and all other standards necessary to ensure that all programs conducted by local educational agencies shall be of high quality, relevant to student needs, and coordinated with employment opportunities; and

(10) a system of continuing qualitative and quantitative evaluation of all vocational education programs, services, and activities supported under the provisions of this Article shall be established, maintained, and utilized periodically. One component of such system shall be follow-up studies of former students of vocational education programs who have been out of school for one year, for three years, and for five years to ascertain the effectiveness of instruction, services, and activities.

"§ 115-229.5. *Acceptance of benefits of federal vocational acts.*—The State of North Carolina, through the State Board of Education, shall be empowered to accept all the provisions and benefits of acts passed by the Congress of the United States providing federal funds for vocational and technical education programs; provided, however, that the State Board of Education is not authorized to accept such funds upon any condition that the public schools of this State shall be operated contrary to any provision of the Constitution or statutes of this State.

"§ 115-229.6. *State funds for vocational education.*—It is the intent of the General Assembly of North Carolina to appropriate funds for each fiscal year to support the purposes of vocational education as set forth in Section 115-229 of this Article. From funds appropriated, the State Board of Education shall establish a sum of money for State administration of vocational education and shall allocate the remaining sum on an equitable basis to local educational agencies, except that a contingency fund is established to correct excess deviations which may occur during the regular school year. In the administration of State funds, the State Board of Education shall adopt such policies and procedures as necessary to ensure that the funds appropriated are used for the purpose stated in this Article and consistent with the policy set forth in the Master Plan for Vocational Education.

"§ 115-229.7. *Responsibility of local boards of education.*—Each local educational agency shall provide free appropriate vocational education instruction, activities, and services in accordance with the provisions of this Article for all youth who elect such instruction and shall have responsibility for

administering such in accordance with federal and State law and State Board of Education policies."

Sec. 3. Article 29 of Chapter 115 of the General Statutes is repealed in its entirety.

Sec. 4. Chapter 115 of the General Statutes is amended by adding a new Article to read and be designated as follows:

"ARTICLE 29A.

"Vocational Education Production Work Activities.

"§ 115-240.1. *Statement of purpose.*—It is the intent of the General Assembly that practical work experiences within the school and outside the school, which are valuable to students and which are under the supervision of a teacher, should be encouraged as a part of vocational education instruction in the public secondary schools when such experiences shall be organized and maintained to the best advantage of the vocational education programs. Local boards of education are authorized to use available financial resources to support such instruction.

"§ 115-240.2. *Definitions.*—The State Board of Education is authorized and directed to provide appropriate definitions necessary to this part of vocational education instruction not otherwise included in this Article:

(1) The term 'Production Work' means production activities and services performed by a vocational education class(es) under contract with a second party for remuneration.

(2) The term 'Building Trades Training' means the development of vocational skills through the construction of dwellings or other buildings and related activities by students in vocational education programs.

"§ 115-240.3. *Duties of the State Board of Education.*—The State Board of Education is authorized and directed to establish, maintain, and implement such policies, rules, regulations, and procedures not in conflict with State law or other State board policies as necessary to assist local boards of education in the conduct of production work experiences performed in connection with approved State Board of Education vocational education programs.

"§ 115-240.4. *Use of proceeds derived from production work.*—Unless elsewhere authorized in these statutes, local boards of education are authorized and directed to deposit to the appropriate school account, no later than the end of the next business day after receipt of funds, all proceeds derived from the sale of products or services from production work experiences. Such proceeds shall be established as a revolving fund to be used solely in operating and improving vocational education programs.

"§ 115-240.5. *Acquisition of land for agricultural education instructional programs.*—Local boards of education are authorized and empowered to acquire by gift, purchase, or lease for not less than the useful life of any project to be conducted upon the premises, a parcel of land suitable for a land laboratory to provide students with practical instruction in soil science, plant science, horticulture, forestry, animal husbandry, and other subjects related to the agriculture curriculum.

Each deed, lease, or other agreement for such land shall be made to the respective local board of education in which the school(s) offering instruction in agriculture is located; and title to such land shall be examined and approved by the school attorney.

Any land laboratory thus acquired shall be assigned to the agricultural education program of the school, to be managed with the advice of an agricultural education advisory committee.

The products of the land laboratory not needed for public school purposes may be sold to the public; provided, however, that all proceeds from the sale of products shall be deposited in the appropriate school account no later than the end of the next business day after receipt of funds. Such proceeds shall be established as a revolving fund to be used solely in operating and improving vocational education programs.

"§ 115-240.6. *Building trades training.*—In the establishment and implementation of production work experience policies, the State Board of Education shall be guided as follows:

(1) Local boards of education are authorized to use supplementary tax funds or other local funds available for the support of vocational education to purchase and develop suitable building sites on which dwellings or other buildings are to be constructed by vocational education trade classes of each public school operated by local boards of education. Local boards of education are authorized to use such funds for each school to pay the fees necessary in securing and recording deeds to these properties for each public school operated by local boards of education and to purchase all materials needed to complete the construction of buildings by vocational education trade classes and for development of site and property by other vocational education classes. Local boards of education are further authorized to expend such funds in acquiring skilled services, including electrical, plumbing, heating, sewer, water, transportation, grading, and landscaping needed in the construction and completion of buildings which cannot be supplied by the students in vocational education trade classes.

(2) Local boards of education are authorized, in conjunction with or in lieu of paragraph (1) above, to contract with recognized building trades educational foundations or associations in the purchase of land for the construction and development of buildings; provided, however, that all contracts are in accordance with the requirements set forth by the State Board of Education.

"§ 115-240.7. *Advisory committee on construction projects.*—The board of education of the local administrative unit in which the proposed project(s) of construction is to be undertaken shall appoint an advisory committee composed of no less than five persons residing within that administrative unit of which no less than three will be associated with the building trades industry, and no building trades project(s) shall be undertaken without the approval of a majority of the advisory committee."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 573

CHAPTER 491

AN ACT RELATING TO RAFFLES AND THE GAME OF BINGO IN ALAMANCE, BUNCOMBE, MCDOWELL, AND MECKLENBURG COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to operate raffles and the game of "bingo" (by whatever name called) for prizes and/or money except as hereinbelow provided. It shall be lawful to operate raffles and the game of "bingo" (by whatever name called) for prizes and/or money if the person or organization operating said game or raffle has prominently displayed a determination letter from the North Carolina Secretary of Revenue (or the equivalent from the Internal Revenue Service) in the specific place or room where said game or raffle is being conducted. The determination letter must indicate that the person or organization conducting said game or raffle has been exempted from income and/or franchise taxes in respect to income derived in the conduct of its exempt activities. Nothing contained in said determination letter shall exempt the person or organization from any unrelated business income taxes received from said raffle or "bingo" game.

Sec. 2. All proceeds derived from such games shall inure to the named nonprofit organization. No proceeds shall be deducted for administration, management or any operating expenses other than prizes.

Sec. 3. A nonprofit organization may not contract with or compensate any individual or corporation for conducting any "bingo" game.

Sec. 4. The number of sessions where a game of "bingo" is conducted or sponsored by a person or single organization shall be limited to one session per week. No session where the game of "bingo" is conducted shall exceed a time period of six consecutive hours per week.

Sec. 5. The number of sessions where a game of "bingo" is conducted or sponsored shall be limited to one session per week in any one location.

Sec. 6. It shall be sufficient under this act for a prima facie showing of a violation to show that a raffle was being conducted or the game of "bingo" was being played for prizes and/or money and that the determination letter required by this act was not prominently displayed. The prima facie showing does not require expert testimony.

Sec. 7. Any violation of this act shall be a misdemeanor, punishable in accordance with G.S. 14-3(a).

Sec. 8. Chapter 628, Section 1 of the 1975 Session Laws is hereby repealed in its entirety.

Sec. 9. This act shall apply only in the following counties: Alamance, Buncombe, McDowell, and Mecklenburg.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 612 **CHAPTER 492**

AN ACT TO REPEAL THE PROHIBITION AGAINST HUNTING IN THE SNOW IN DAVIE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 252 of the 1937 Public-Local Laws of North Carolina is hereby repealed in its entirety.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 631 **CHAPTER 493**

AN ACT TO AMEND THE LAW REGULATING THE MANNER OF TAKING GAME TO MAKE IT APPLICABLE TO WAYNE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-104 is hereby amended by deleting the word "Wayne" from line 10 of the sixth paragraph.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 710 **CHAPTER 494**

AN ACT TO PROHIBIT THE HUNTING OF DEER ON THE OUTER BANKS IN CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There shall be no open season for the taking of male deer in that portion of Currituck County commonly known as the Outer Banks, as defined in G.S. 104B-13(1).

Sec. 2. The meaning of the term "taking" as used herein shall be the same as "take" defined in G.S. 113-83.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 741 **CHAPTER 495**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Wilmington is hereby revised, consolidated, and rewritten as follows:

"THE CHARTER OF THE CITY OF WILMINGTON.

"ARTICLE 1.

"Incorporation and Corporate Powers.

"Sec. 1.1. Incoporation and general powers. The inhabitants of the City of Wilmington shall be, and continue as they have been, a municipal body politic and corporate, and the corporation shall bear the name and style of City of Wilmington, and have perpetual succession, and under such name and style

shall have all franchises, powers, property and rights of property which now belong to the corporation, under any other name or names heretofore, and be subject to all its present liabilities; and by this name may acquire and hold all such estates as may be devised, bequeathed, sold, or in any manner conveyed to it, and from time to time, as it shall be deemed advisable by the proper authorities of the corporation, invest, sell, or dispose of the same; and under this name shall have power to contract and to be contracted with, to sue and be sued, and shall have all the rights, powers, privileges, franchises, and immunities necessary or belonging to or usually appertaining to municipal corporations.

"Sec. 1.2. Corporate seal. The corporate seal of the City of Wilmington heretofore used by the city shall be and remain the corporate seal of the City of Wilmington under this charter unless changed by the city council by ordinance. Such seal shall be lodged in the custody and keeping of the city clerk of the City of Wilmington for preservation and safekeeping and shall be affixed by him to all proper documents.

"Sec. 1.3. Exercise of powers. All powers, functions, rights, privileges and immunities of the city, its officers, agencies, or employees, shall be carried into execution as provided by this charter, or, if this charter makes no provision, as provided by ordinance or resolution of the city council, and as provided by the general laws of North Carolina pertaining to municipal corporations, their officers, agencies or employees.

"Sec. 1.4. Enumeration of certain specific powers. The city council, among the powers granted, shall have power and authority:

(1) Payment of debts. To provide for the payment of any existing indebtedness and of any lawful obligation that may from time to time be made by the city and to appropriate funds for that purpose.

(2) Establishment of parks. To establish and regulate public parks and grounds for its citizens.

(3) Establishment, maintenance of streets. To establish, construct, open, close, grade and keep in repair streets, sidewalks, public alleys, bridges, culverts, drains and conduits in the city, and regulate the construction and use of the same.

(4) Obstructions and encroachments on streets. To abate any obstructions and encroachments on streets, sidewalks, public alleys, bridges, culverts, drains and conduits in the city and to punish those causing or responsible for such obstructions or encroachments.

(5) Excavations in streets. To prevent excavations on any street, sidewalk, public alley, park or public ground, unless by permission of the city council, to prescribe and exact fees for such privileges and to require satisfactory bonds or deposits in cash or securities as guarantee for the proper restoration of such street, sidewalk, park, public alley or public ground.

(6) Lighting of streets, generally. To provide for the lighting of the streets, public grounds, parks and public buildings.

(7) Lighting of streets used by railroads. To require all railroads to light the streets over or across which their trains are operated where such lighting is deemed necessary by reason of the operation of such trains and to prescribe the kind of light to use for such lighting.

(8) Speed of trains. To regulate the speed of all railroad trains and locomotives within the city, subject to the provisions of Section 62-60 of the General Statutes of the State.

(9) Assessments against railroads for street improvements. To levy special tax assessments upon railroads for street improvements in the same manner as against abutting property owners as provided for in this charter.

(10) Gates at railroad crossings. To require railroad companies to maintain gates or watchmen at street crossings when deemed necessary.

(11) Railroad tracks, turnouts, switches. To regulate and control the laying and construction of railroad tracks, turnouts and switches, and to regulate, change or alter the grades of same and to require that railroad tracks, turnouts and switches be constructed and so laid as to interfere as little as possible with the ordinary travel and use of streets, and to require railroad companies of all kinds to construct, raise, lower, alter, widen or enlarge, at their own expense, such tracks, bridges, turnouts, culverts, crossings and other things as the city council may deem necessary.

(12) Power engines and boilers. To control and regulate the erection and use of steam and other power engines and boilers in the city, and to adopt such rules and regulations in relation thereto as may be deemed best for the public safety and comfort.

(13) Transportation of explosives and flammables. To regulate the transportation, storage and use of gasoline, benzine, dynamite and other substances which are explosive or highly flammable and dangerous to the public safety.

(14) Use of bicycles and motor vehicles. To regulate the use of bicycles and motor vehicles.

(15) Permits for bicycles. To issue permits for the use of bicycles and to require the same to be numbered.

(16) Inspection of dairies, milk and foodstuffs. To provide for inspection of all dairies doing business within the city, and to regulate and maintain a standard for milk sold in the city, to provide for and regulate the inspection of all foodstuffs offered for sale in the City of Wilmington, and to impose license fees on all persons engaged in any such businesses.

(17) Slaughterhouses and meat markets. To regulate, license or prohibit the business of slaughtering animals and to regulate the selling of fresh meats in the city limits, to revoke such license for malconduct in business and to regulate and prescribe plans and specifications and conduct of slaughterhouses and abattoirs where animals are slaughtered and where fresh meats are kept or stored for use or sale within the city.

(18) Cleaning dairies, groceries, restaurants. To require any owner or occupant of a dairy, grocery, meat, fish or other market place, any restaurant or eating place or stable, to cleanse or operate same in such manner as may be necessary for the health, comfort and convenience of the inhabitants.

(19) Markets and market places. To establish markets and market places and provide for the government and regulation thereof.

(20) Horses, cattle, dogs running at large. To regulate, restrain, and prohibit the running at large of horses, cattle, sheep, swine, goats, dogs and other animals in the city, to authorize the impounding and sale of the same for the cost of proceedings and the penalty incurred, to order the destruction of such thereof as cannot be sold or are not reclaimed and to impose penalties on the owners or

keepers thereof for violating any ordinance. At all such sales the purchaser of any animal shall be deemed to acquire a good and valid title thereto if the provisions of the ordinance have been complied with.

(21) Sunday observance; order near churches. To provide for the due observance of Sunday and the maintenance of order in the vicinity of churches, schools and hospitals.

(22) Fire stations and equipment. To establish and own stations and equipment for extinguishing fires and to provide everything necessary for the efficient operation of same.

(23) Fire prevention and extinguishment. To establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

(24) Fire limits and buildings therein. To establish fire limits and to regulate or prohibit the erection, building, placing, moving or repairing of wooden buildings within such fire limits.

(25) Theaters, tenement houses. To regulate the size, arrangement and construction of theaters, tenement houses, audience rooms, public halls and all buildings used for the gathering of a number of people, hereafter to be built.

(26) Dilapidated buildings. To declare as nuisances all dilapidated buidlings which may be deemed dangerous by the city council and to require the same to be removed in such manner as the city council may direct.

(27) Building inspection. To provide for the inspection of all buildings in the city, and to prescribe and enforce proper regulations in regard thereto.

(28) Poles and wires. To regulate and locate the erection of all poles in the city and cause the same to be changed or removed and all wires to be placed underground, whether telegraph, telephone, light, power or otherwise.

(29) Fire escapes. To require the construction of suitable fire escapes on or in hotels, boardinghouses, factories, schoolhouses and other buildings, whether now built or hereafter built.

(30) Construction of chimneys, boilers, furnaces. To prevent dangerous construction of chimneys, fireplaces, hearths, stoves, stovepipes, flues, boilers, furnaces and other heating apparatus, and cause the same to be removed and made safe.

(31) Dense smoke. To prevent nuisances on account of dense smoke from boilers or furnaces.

(32) Right of entry of city officers; correction of defects. To authorize one or more officers, agents, or employees of the city to enter in and upon all buildings and premises within the city to inspect and discover whether such buildings and premises are dangerous on account of fire hazard or otherwise, or in an unclean state, and to cause the defects to be remedied and filth and trash to be removed.

(33) Nuisances generally. To define what shall be nuisances in the city, to abate them by summary proceedings and to punish the authors by penalties, fines or imprisonment.

(34) Incinerators. To establish one or more incinerators and to provide for the removal of all filth, carcasses of dead animals and other unhealthy substances for incineration.

(35) Condition of premises. To require the owners and occupants of all premises to keep such premises in a clean condition.

(36) Burial of dead. To regulate the burying of the dead in the city.

(37) Sewerage and drainage systems. To establish, enlarge or extend systems of sewerage and drainage and to require persons owning property within a reasonable distance to connect therewith.

(38) Sewage disposal plants. To establish works or plants for sewage disposal and to extend or build the same beyond the corporate limits of the city when deemed necessary.

(39) Private drains, sinks and privies. To require the owners of private drains, sinks, and privies to fill up, cleanse, drain, relay, repair, remove or fix and improve the same; provided, that if necessary, the city can have such work done, and the costs of the same shall be a lien on the property and taxed up against it and collected in such manner as the city council may determine.

(40) Waterworks system. To own, maintain and operate a system of waterworks for the furnishing of a supply of water to the city and its inhabitants.

(41) Transportation facilities. To supervise all transportation facilities in the city.

(42) Fares and taxicabs. To regulate fares for transportation by all taxicabs and other vehicles for hire in the streets of the city.

(43) Protection of taxicab drivers, hotel keepers, against fraud. To protect drivers of taxicabs and other vehicles for hire, chauffeurs, keepers of restaurants, boardinghouses, motels, tourist courts, hotels or lodginghouses or places from being cheated, defrauded or deprived of just compensation for services rendered or accommodation furnished.

(44) Theatricals, circuses, carnivals. To provide for regulating and restraining theatricals, circuses, carnivals and other public performances within the city and levy license taxes thereon and to enforce such provisions.

(45) Docks, wharves and warehouses. To regulate the use of docks, wharves and warehouses and to regulate and fix the charges for the use thereof.

(46) Leases on streets bordering river. To make temporary leases of any portion of the streets of the city bordering on the river not necessary to the public use; provided, however, that: (1) no such lease shall be for a longer term than two years; (2) the city council may terminate such lease upon 30 days' notice to the lessee, notwithstanding the term shall not have expired.

(47) Penalties for breach of ordinance enacted under charter. To prescribe penalties and forfeitures for the breach of any ordinance enforcing the powers granted in this charter and to provide for the recovery of such fines and forfeitures.

(48) Other powers and functions. To exercise any other powers and functions granted to municipalities by the general laws of the State, not inconsistent with any specific provisions of this charter.

"Sec. 1.5. Levy on city property prohibited. No levy shall be made on any property belonging to the city nor shall any levy be made upon the property of the individual for any debt due by the city, but all such debts shall be paid only by taxation upon subjects properly taxable by the city.

"Sec. 1.6. Place of payment of bonds and coupons. All municipal bonds and coupons shall be payable at such place or places as may be designated in the ordinance authorizing the issuance of such bonds.

"Sec. 1.7. Bond may be required of certain persons contracting with city. The city council may require every person contracting to furnish materials or supplies or do work for the City of Wilmington to give bond with good surety in

some licensed and approved surety company and of sufficient amount to protect the city. Where the security in any such bond shall become insufficient or insolvent, the city council may require additional security. If the amount of such bond shall, at any time during the performance of such contract, be deemed by the city to be insufficient to protect the city, the city may require additional bond.

"Sec. 1.8. Naming all streets, parks, and public places. The naming of all streets, parks and public places shall be subject to the approval of the city council.

"ARTICLE II.

"Corporate Limits.

"Sec. 2.1. Corporate limits described. The corporate limits of the City of Wilmington shall be as described and set forth in Chapter 454 of the Session Laws of 1977, ratified on May 30, 1977.

"ARTICLE III.

"Mayor and City Council.

"Sec. 3.1. Composition of city council. The city council shall consist of six members who shall be elected from the city at large in the manner provided in Article IV.

"Sec. 3.2. Council; terms of office, qualifications; vacancies. (a) Members of the city council shall serve for terms of four years, beginning the day and hour of the organizational meeting held after their election; provided, that members shall serve until their successors are elected and qualified. The terms of councilmen shall be staggered terms of four years as provided in Article IV.

(b) No person shall be eligible to be elected to the city council or serve thereon unless he is 21 years of age and a resident of the city.

(c) If any elected council member shall refuse to be qualified, or if there is a vacancy of a councilman after election and qualification or if any councilman be unable to discharge the duties of his office, the remaining members of the council shall elect some person to serve the unexpired term or during his disability, as the case may be. Councilmen so elected shall have all authority and powers granted by this charter to regularly elected councilmen.

"Sec. 3.3. Election of mayor; terms of office; vacancy. The mayor shall be elected by the qualified voters of the city and his term shall be for two years. In case of vacancy in the office of the mayor, the remaining members shall elect his successor for the unexpired term.

"Sec. 3.4. Duties of mayor. The mayor shall:

(a) Preside at all meetings of the city council, but shall have the right to vote only when there are equal numbers of votes in the affirmative and in the negative;

(b) Be the official head of the city for the service of process, for ceremonial purposes, and shall be so recognized by the Governor of the State in connection with the military law;

(c) Have power to administer oaths and take affidavits;

(d) Sign all written contracts entered into by the council on behalf of the city and all other contracts and instruments executed by the city which by law requires the mayor's signature. All other contracts shall be made and signed by the mayor or city manager.

"Sec. 3.5. Mayor pro tempore; duties; term. At its organizational meeting the council shall elect one of its members mayor pro tempore, to preside in the

absence of the mayor and to act as mayor in the absence or during the disability of the mayor. In the event of a vacancy in the office of the mayor, the mayor pro tempore shall act as mayor until a mayor is elected by the council pursuant to Section 3.3 of this Article. The term of office of the mayor pro tempore shall be two years.

"Sec. 3.6. Organization of city council; oaths of office. The council shall meet and organize at the first regular meeting in December in each election year of the mayor and councilmen of the City of Wilmington. Before entering upon their offices, councilmen shall severally take oath before the mayor or city clerk to perform faithfully the duties of their respective offices. Any elected councilmen not present at the organizational meeting may take oath at any time thereafter.

"Sec. 3.7. Rules of council; journal of proceedings. The city council shall determine its own rules and order of business and shall keep a journal of its proceedings.

"Sec. 3.8. Access to council minutes. Any citizen of the city shall have access to the minutes and records of the city council at all reasonable times.

"Sec. 3.9. Other public employment prohibited; eligibility for office created by council. No member of the city council shall hold any other office or employment during the term for which he or she is elected, compensation for which is paid out of the city funds, nor be entitled or appointed to any office created by or the compensation of which was increased or fixed by the city council while he or she was a member thereof; provided, the council may select one of its members to act as city treasurer. Any person violating this section shall be guilty of a misdemeanor.

"Sec. 3.10. Meetings of council. (a) The city council shall fix suitable times for its regular meetings, which shall be as often as once monthly. The mayor, or any two council members may at any time call a special meeting by signing a written notice stating the time of the meeting, to be delivered to each member or left at his usual dwelling place at least six hours before the meeting. Meetings of the council may also be held at any time when all members of the council are present and consent thereto. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the city council shall be public meetings except when executive sessions are authorized. The city council shall vote on questions at a public meeting only.

"Sec. 3.11. Quorum; votes. (a) A majority of the members elected to the council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members.

(b) The affirmative vote of a majority of the council members shall be necessary to adopt any ordinance or to authorize the expenditure of money. All other matters voted upon shall be decided by majority vote of the council members present.

(c) No member of the council shall be excused from voting on any matter not involving his own official conduct or his financial interest.

"Sec. 3.12. Committees. Special committees of the city council shall be appointed as provided by the city council or State law.

"Sec. 3.13. Exercise of city powers. (a) The city council shall direct the exercise of all of the powers of the city, except as otherwise provided by this charter.

(b) In addition to the powers herein conferred, and to other powers conferred upon it by general law, the city council may adopt and provide for the execution of such ordinances, rules, and regulations, not inconsistent with this charter, as may be necessary or appropriate for the preservation and promotion of the health, safety, comfort, convenience, good order, better government, and general welfare of the city and its inhabitants.

"Sec. 3.14. Investigations by council. The city council, or any committee thereof duly authorized by the city council so to do, may investigate the transactions of any office or department of the city government and the official acts and conduct of any city official and by similar investigations may secure information upon any matter within its province. In conducting any such investigations, the city council, or any committee thereof may compel the attendance of witnesses and administer oaths and compel the production of books, papers and other evidence and, for that purpose, may issue subpoenas or attachments, to be signed by the presiding officer of the city council or chairman of such committee, as the case may be, which shall be served and executed by an officer authorized by law to serve subpoenas and other process. If any witness shall refuse to testify to any facts within his knowledge, or to produce any papers or books in his possession or under his control, relating to the matter under inquiry before the city council, or any such committee, the city council shall have the power to commit the witness to prison for contempt. No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against him in any criminal prosecution, except for perjury. Willful false swearing in any such investigation and examination shall be perjury, and punishable as such.

"Sec. 3.15. Control of finances and property. The city council shall have control of all the finances and all the property, real and personal, belonging to the city.

"ARTICLE IV.

"Elections.

"Sec. 4.1. The regular municipal election for elected officials shall be nonpartisan and the election and run-off election method set out in G.S. 163-293 shall be used. The regular municipal election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November, and the run-off election, if required, shall be held on Tuesday after the first Monday in November beginning in 1977.

Present members of the city council shall continue in office until the expiration of their respective terms.

"Sec. 4.2. Election of council members. At the regular municipal election to be held in 1977, three council members shall be elected for terms of four years, and in 1979 three council members shall be elected for terms of four years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years.

"Sec. 4.3. Election of mayor. In 1977, and every two years thereafter, the mayor shall be elected by the qualified voters of the city for a term of two years.

"Sec. 4.4. County board of elections to hold municipal elections. All elections in the City of Wilmington shall be held and conducted by the county board of elections in accordance with the provisions of this charter and the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. The

city shall reimburse the county board of elections for the expense incurred in holding and conducting the municipal elections.

"Sec. 4.5. Any qualified voter of the city, except as disqualified by the Constitution of North Carolina, shall be eligible for election by the people to office, and to vote in municipal elections.

"ARTICLE V.

"Initiative and Referendum.

"Sec. 5.1. Initiative ordinances generally. Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the percentages hereinafter required. The signatures, verification, inspection, certification, amendment and submission of such petition shall be the same as provided for by general law. If the petition accompanying the proposed ordinance be signed by electors equal in number to 25 per centum (25%) of the votes cast at the last preceding regular municipal election and contains a request that such ordinance be submitted to a vote of the people if not passed by the council, such council shall either:

(a) Pass such ordinance without alteration within 20 days after attachment of the clerk and treasurer's certificate to the accompanying petition, or,

(b) Forthwith, after the clerk and treasurer shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election, unless a general municipal election is fixed within six months thereafter, and at such special or general election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of the city.

The ballots used when voting upon such ordinance shall contain these words: 'For the ordinance' (Stating the nature of the proposed ordinance), and 'Against the ordinance' (Stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition or which shall be adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The council may submit a proposition for the repeal of any ordinance or for amendments thereto, to be voted upon at any succeeding general or special election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk and treasurer shall cause such ordinance or proposition to be published once in each of the newspapers published daily in the City of Wilmington; such publication to be not more than 20 nor less than five days before the submission of such proposition or ordinance to be voted upon.

"Sec. 5.2. Form and contents of referendum petition. The petitions provided for in the two preceding sections shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or

more legal voters of the city, stating that the signers thereof were, at the time of the signing, legal voters of the city, and stating the number of signers at the time the affidavit was made.

"ARTICLE VI.

"Unlawful Election Practices.

"Sec. 6.1. Unlawful acts generally. Any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided for in this charter, or any elector entitled to vote at any such election receiving or accepting any such bribe or other consideration; or any person making false answer to the provisions of this charter relative to his qualifications to vote at any election; or any person making false answer to the provisions of this charter relative to his qualifications to vote at any election; or any person willfully voting or offering to vote at such election who has not been a resident of this State for 30 days or of the precinct of which he offers to vote for 30 days, or who is not 18 years of age, or who is not a citizen of the United States, or knowingly himself not to be a qualified voter of such precinct where he offers to vote; or any person knowingly procuring, aiding or abetting any violation hereof, shall be guilty of a misdemeanor, and upon conviction may be fined not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00), and be imprisoned not less than 10 days nor more than 90 days.

"Sec. 6.2. Promising employment or benefits. It shall be unlawful for any candidate for office or any officer of the city, directly or indirectly, to give or promise any person or persons in the office positions, employment, benefit, or anything of value, for the purpose of influencing or obtaining the political support, aid or vote of any person or persons; any such person committing a breach hereof shall be guilty of a misdemeanor, and upon conviction may be fined not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00), or be imprisoned in the county jail not less than 10 days nor more than 90 days, or both.

"Sec. 6.3. City officers and employees. Every employee of the city has the civic responsibility to support good government in an appropriate manner in accordance with the policies of the city. This policy shall not be construed to prevent any employee from becoming or continuing to be a member of a political party or attending political meetings or from enjoying complete freedom from all interference in casting a vote.

In city, county, State and federal elections, no employee shall:

1. Engage in political activity while on duty;

2. Use his or her official authority or influence to interfere with or affect the result of an election or nomination for office;

3. Be required to contribute funds or support for political campaigns as a condition of employment, promotion, or tenure of office;

4. Solicit, or act as custodian of funds for political campaigns;

5. Coerce, compel, or solicit contributions for political campaigns from other city employees;

6. Use city-owned or leased supplies, equipment, or facilities to display political slogans, posters, or stickers or for any other political purpose.

In city elections, no employee shall:

1. Invite candidates to solicit votes in city offices or facilities;

2. Actively participate in the management of a candidate's campaign;

3. Endorse candidates, individually or in concert with other city employees, in the public media, broadcast and print.

Employees seeking office in any partisan or nonpartisan election shall be governed by the personnel ordinance of the city.

"ARTICLE VII.

"Ordinances and Resolutions.

"Sec. 7.1. Form; limitation as to subject matter. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated, general and special improvement resolutions may contain the various improvements to be made and ordinances adopting a revision and codification of ordinances may contain the various subjects contained in any or all of the ordinances of the city.

"Sec. 7.2. Reading. No ordinance, unless it be declared an emergency measure in the opinion of the city attorney, shall be passed until it has been read on two separate days, or the requirement of reading on two separate days has been dispensed with by a unanimous vote of the members present; provided, that the requirement of reading on two separate days shall never be dispensed with on ordinances making a grant, renewal or extension of a franchise. The first reading of all ordinances shall be by title or, upon the request of any council member in full; except, that the reading of the title of an ordinance adopting a technical code as authorized by Section 26.5 of this charter or an ordinance adopting a revision and codification of the ordinance of the city shall be sufficient.

"Sec. 7.3. Recordation, authentication and attestation. Every ordinance or resolution, except an ordinance adopting a revision and codification of the ordinances of the city, upon its final passage, shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the mayor and attested by the city clerk.

"Sec. 7.4. Revision and amendment. No ordinance or resolution or section or subsection thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution or section or subsection revised or amended, and the original ordinance, resolution, section or subsection so amended shall be repealed.

"ARTICLE VIII.

"City Manager.

"Sec. 8.1. Appointment, qualifications, term and compensation. The city council shall appoint the city manager to hold office during the pleasure of the council. The city manager shall be appointed with regard to merit only, and he need not be a resident of the city when appointed. The city manager shall receive for his services such compensation as the city council shall determine.

"Sec. 8.2. Powers and duties of city manager generally. The city manager shall (1) be the administrative head of the city government; (2) see that within the jurisdiction of the city the laws of the State and the ordinances, resolutions, rules and regulations of the council are faithfully executed and enforced; (3) attend all meetings of the council, and recommend for adoption such measures as he may deem expedient; (4) make reports to the council from time to time upon the affairs of the city, and keep the council fully advised of the city's financial condition and its future financial needs.

"Sec. 8.3. Certain specific powers and duties of city manager enumerated. (a) The city manager shall devote his time to the affairs of the city and shall not actively engage in any other business that will conflict with his primary duties.

(b) The city manager shall establish and organize such departments for the administration of the affairs of the city as he may deem proper or necessary for the efficient and economical administration, subject to the approval of the city council.

(c) The city manager shall see that all terms and conditions imposed in favor of the city or its inhabitants in the public utility franchises are faithfully kept and performed and, upon knowledge of any violation thereof, shall call the same to the attention of the city council and shall take such steps as are necessary to enforce the same.

(d) The city manager, or such person as he shall designate, shall superintend the construction, operation and maintenance of all public works, including streets, sidewalks, sewers, waterworks, public grounds, and parks.

(e) The city manager may revoke or suspend licenses or permits pending action by the city council.

(f) The city manager or his designee shall supervise performance of all contracts of the city.

(g) The city manager shall examine personally, or by duly designated deputy, all records, books and accounts of each department of the city government.

(h) The city manager shall require that reports shall be made to him or his designee by each department of the city government, showing the receipt of all moneys by such departments and the disposition thereof, at least once a month or more often if he desires.

(i) The city manager, or the purchasing agent designated by him, shall purchase all supplies and materials used by the city, subject to the provisions of Section 143-129 of the General Statutes of the State, and subject to the provisions of Section 143-131 of the General Statutes of the State.

(j) The city manager shall keep the city council fully advised as to the financial condition and needs of the city.

(k) The city manager shall, in addition to the powers and duties set forth in this charter and the State law, exercise such other powers and perform such other duties as may be authorized by the city council, not inconsistent with this charter or with the State law.

"Sec. 8.4. Absence or disability of city manager. In the event the city manager shall be sick, absent from the city or otherwise unable to perform the duties of his office, the council may designate any other city employee, or any other person, as acting city manager, and the person so designated shall have all the power and authority of the manager while serving in such capacity. Any employee designated as acting city manager shall receive such additional compensation as the council may determine. Neither the mayor nor any council member shall serve as acting city manager.

"ARTICLE IX.

"Administrative Offices and Personnel.

"Sec. 9.1. Appointment and removal of department heads and employees; salaries. (a) The city manager, except as otherwise provided in this charter, shall appoint and may suspend and remove all city employees and heads of departments, and, in his discretion, may employ consultants of any kind, as authorized by city council in the budget. The city manager shall report to the

council every appointment and removal of a department head at the next regular council meeting following such appointment or removal.

(b) The council will approve a general pay plan for employees to be administered by the manager. Council retains the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city. And furthermore, nothing in this Article shall be so construed as to deprive the city council of its control over the finances of the city.

(c) City employees and department heads shall perform such duties as may be required by them by the city manager under general regulations of the council.

(d) Neither the council nor any of its members shall take any part in the appointment or removal of department heads and employees in the administrative service of the city, except as provided by this charter. Except for the purpose of inquiry, or for consultation with the city attorney, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any of its members shall give any specific orders to any subordinates of the city manager, either publicly or privately.

"Sec. 9.2. City clerk. The city clerk shall be appointed by the city council, and shall have the following duties: (1) to act as clerk to the council, to attend all meetings thereof, and to maintain a permanent record of all proceedings thereof; (2) to keep the books of accounts of the city. The term of office of the city clerk shall be two years.

"Sec. 9.3. City treasurer. The city treasurer shall be appointed by the city council.

"Sec. 9.4. City tax collector. The city council shall appoint a tax collector for the city, who shall be charged with the collection of all taxes and assessments except where a contract exists between the city and the county for the county tax collector to perform such collections.

"Sec. 9.5. Consolidating of functions of certain offices. The city council may, in its discretion, consolidate the offices of the city clerk, city treasurer, and city tax collector, and may assign the functions of any one of these offices to the holder of any other of these offices.

"Sec. 9.6. Oath of office required. Before entering upon the discharge of their duties, the holders of the following offices and positions shall be required to take the oath prescribed for public officers before some person authorized to administer oaths: the city manager, acting city manager, city clerk, tax collector, any assistant city clerk or assistant tax collector, city treasurer, chief of police and each member of the police force, the building inspector and all employees empowered to enforce the building code, and the electrical inspector and all employees empowered to enforce the electrical code.

"ARTICLE X.

"City Attorney.

"Sec. 10.1. Appointment; term. The city council shall at its organizational meeting, or as soon thereafter as practicable, appoint or elect a city attorney to serve for a term of two years.

"Sec. 10.2. Compensation. The compensation of the city attorney and any assistant to the city attorney shall be fixed by the city council.

"Sec. 10.3. Qualifications. The city attorney shall be an attorney-at-law admitted to practice in the State of North Carolina.

"Sec. 10.4. Designation of assistants and legal consultants. The city attorney may designate such assistant city attorneys and legal consultants as the city council may authorize in the budget.

"Sec. 10.5. Legal advisor for city. The city attorney shall be the legal advisor of and attorney and counsel for the city and for all officers thereof, in matters relating to their official duties.

"Sec. 10.6. Prosecution and defense of suits. The city attorney shall prosecute or defend all suits for and in behalf of the city.

"Sec. 10.7. Preparation of instruments. The city attorney shall prepare all contracts, bonds and other instruments in writing in which the city is concerned and shall endorse on each his approval of the form, correctness and validity thereof.

"ARTICLE XI.

"Civil Service.

"Sec. 11.1. Civil Service Commission established. There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department.

The employees of the City of Wilmington Fire Department, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. The Wilmington Ministerial Association governing body, by a majority vote, shall name one member.

The members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.

A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members appointed to fill a vacancy serve for the remainder of the unexpired term.

The city council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the commission shall elect a chairman and may elect other officers. A majority of the members of the commission constitutes a quorum. The commission may determine its own rules of procedure.

The city clerk shall be designated as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain minutes of commission meetings and hearings, keep custody of commission records and notify members of meetings. The director of personnel shall act as an ex officio member of the commission representing the city on personnel matters to be handled by the commission. The commission shall within a reasonable time, supply the director of personnel with notification of any actions, reports, or recommendations made by the commission. The personnel office shall notify affected police and fire department members of actions, reports, and recommendations made by the commission.

"Sec. 11.2. Jurisdiction. The Civil Service Act has jurisdiction over an employee of the Police Department of the City of Wilmington certified in accordance with Section 11.5 of this act and who is clothed with the full power of arrest and whose primary duty is that of enforcing the criminal laws of the city and State, excluding those employees whose primary responsibility is that of issuing parking tickets or collecting fees. The chief of the police department is not covered by the Civil Service Act.

The act shall apply to an employee of the Fire Department of the City of Wilmington certified in accordance with Section 11.5 of this act and whose primary function is that of protecting life and property through fire fighting, including those fire officers assigned to supporting services of the fire service. The chief of the fire department is not covered by the Civil Service Act.

"Sec. 11.3. Powers and duties. The commission:

(a) Shall approve reasonable requirements for employment and for examination of applicants. Positions shall be publicized. Examinations shall be competitive, open, and free to all persons meeting the commission's requirements. Examinations shall be practical in character, shall be limited to matters that fairly test the relative ability of the applicant to discharge the duties of the position and shall include tests of mental and physical qualifications and health. Employment procedures shall be consistent with federal and State regulations and the affirmative action policy as adopted by the city council. The director of personnel shall be responsible for implementing and administering personnel policies and procedures approved by the commission. Any standards for police or fire employees that are established by the State of North Carolina shall be included in the requirements for employment.

(b) Shall cause to be prepared and kept a register of persons passing the examinations. The established policy of the city will be followed in filling vacancies from the register.

(c) Shall make an annual report to the city council, city manager, and to the chiefs of the police and fire departments for posting on departmental bulletin boards. The commission may prescribe the form and content of the report.

(d) May secure necessary staff services and request assistance in the performance of its duties from the city manager.

(e) The commission may use the facilities of the city for holding any of its activities.

"Sec. 11.4. Appointment of chief of fire department and chief of police department. Appointments of the chief of the fire department and chief of the police department shall be made by the city council and in making appointments to chiefs of the fire and police departments, due consideration shall be given to persons already employees of the respective department.

"Sec. 11.5. Probationary police and fire officers. Employees of the police and fire departments may be hired on a probationary basis for a period not to exceed 18 months. During this period the chief of the respective department may dismiss after notifying the city manager. At the end of the probationary period, an employee shall become certified, unless terminated prior thereto by action of the chief, with all rights and privileges contained in this Article.

"Sec. 11.6. Disciplinary action. (a) Except as provided in Section 11.5 of this act, an employee of the Police or Fire Department of the City of Wilmington may be dismissed only for cause and with an opportunity to be heard in his or

her own defense. Council retains the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city. And furthermore, nothing in this Article shall be so construed as to deprive city council of its control over the finances of the city.

(b) The chief of the appropriate department may suspend, with or without pay, any employee of the police or fire department charged with violating any rule or regulation of the department, for a period not to exceed 30 calendar days. Within three working days after making any suspension, the chief shall file with the city manager a written statement setting forth the reasons for the suspension in detail. Within the same time, the chief shall give to the suspended officer a signed copy of the statement of the basis for the suspension. Within 10 working days after his suspension, the employee may file with the city manager a written request for a hearing. The city manager shall conduct the hearing within 30 calendar days thereafter.

If the employee is suspended without pay and the city manager finds that the suspension was not justified, or if the charges are dismissed, the employee shall be fully reimbursed for any loss of pay.

(c) With the approval of the city manager, the chief of the appropriate department may dismiss or demote any employee for violating any rule or regulation of the department of which the employee is a member. Within three working days after making any dismissal or demotion, the chief of the department shall file with the commission a written list of charges supporting the discharge or demotion. A copy of this statement shall be given to the city manager and the employee.

Within 10 working days after dismissal or demotion, the employee may file a written request for a public hearing before the Civil Service Commission, and such request shall contain a written response to each of the enumerated charges which was filed in support of the discharge or demotion. The commission shall conduct a hearing within 60 calendar days after receipt of the request.

If the commission determines that the employee has not violated a rule or regulation of the department, the commission shall reinstate with appropriate back pay. In the conduct of its investigations, the commission may subpoena witnesses, administer oaths and compel the production of evidence.

The commission upon finding any employee guilty may sustain the action of the chief or take any other action that may be deemed appropriate.

Any employee found guilty by the commission may appeal to a court of competent jurisdiction. The trial upon appeal shall be governed by the provisions of Article 4, Chapter 150A, of the General Statutes of North Carolina pertaining to Judicial Review of Decisions of Certain Administrative Agencies except that for purpose of G.S. 150A-45 the person seeking review must file a petition in the Superior Court of New Hanover County.

A person who may wish to appeal to the superior court shall file with the secretary of the commission a bond in an amount set by the commission, with sufficient surety conditioned that the person shall pay the cost of such appeal in the event such cost shall be levied against the person, and shall pay to the secretary the necessary fee for entering such appeal in the superior court within 10 calendar days after entry of such order or decree appealed from, and upon appeal, the secretary of the Civil Service Commission shall forthwith transmit to the superior court a complete transcript of all papers and proceedings

concerning the order or decree or action of the Civil Service Commission appealed from, together with the appeal bond and fee.

"Sec. 11.7. Enforcement of subpoenas. In the conduct of hearings or investigations, the members of the commission shall have the right and power to compel by subpoena both the attendance and testimony of witnesses or for the production of evidence that may be relevant to the case to be heard. The commission may apply to a court of competent jurisdiction for an order requiring that its order be obeyed. No testimony of any witness before the commission may be used against the witness on the trial of any criminal prosecution other than for false swearing committed on examination.

All persons testifying before the commission shall be administered the appropriate oath by the city clerk. The city clerk or other designated court recorder shall be responsible for recording all proceedings.

Any person, while under oath, at an investigation by the commission, willfully swearing falsely, shall be guilty of a misdemeanor.

"Sec. 11.8. Personnel policies. Unless specifically excepted by this act, all other ordinances and policies affecting the employees of the City of Wilmington shall apply to employees under the Civil Service Act.

"ARTICLE XII.

"Conduct of Officers and Employees.

"Sec. 12.1. Failure to turn over property to successor. Any officer of the City of Wilmington who shall, on demand, fail to turn over to his successor in office the property, books, moneys, seals or effects of such city shall be deemed guilty of a misdemeanor, and imprisoned for not more than two years and fined not exceeding one thousand dollars ($1,000), at the discretion of the court.

"Sec. 12.2. Forfeiture of office upon conviction of bribery or malfeasance. Any member of the council or other officer or employee of the City of Wilmington convicted of bribery or of any crime amounting to malfeasance in office shall forfeit his office and the emoluments thereof.

"Sec. 12.3. Conflict of interest. It shall be unlawful for any member of the city council, or other officer or employee of the city, directly or indirectly, to become a contractor for work done for the city, or to become, directly or indirectly, personally interested in or receive profit from any purchase of supplies for any department of the city. Any person violating this section shall be guilty of a misdemeanor.

"ARTICLE XIII.

"Fiscal Control; Purchasing and Contracts.

"Sec. 13.1. Applicability of Fiscal Control Act. Fiscal control practices in the city shall be subject to and governed by the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 13.2. Disbursements. All disbursements from the city treasury shall be made by warrant drawn on the city treasury by the director of finance pursuant to such rules and regulations as may be established by the city manager.

"Sec. 13.3. Duties of director of finance. The director of finance, under the supervision of the city manager, shall prescribe the accounting procedures for all departments of the city and require such reports as may be necessary to reflect the financial condition of the city. He shall make such financial reports as may be required of him by the city manager and shall perform such other duties not in conflict with the Fiscal Control Act as may be required of him by the city manager.

"Sec. 13.4. Annual audit and financial report. The city council shall cause an audit to be made of the books of account, records and transactions of the administrative departments of the city at least once each year. Such audit shall be made by one or more competent accountants to be selected by the city council. Such report shall include a general balance sheet, exhibiting the assets and liabilities of the city, supported by departmental schedules; summaries of income and expenditures, supported by detailed schedules; and also comparison, in proper classification, with the last previous year. Such report, or a condensed summary thereof, shall be printed for distribution, or published, as the city council may direct.

"Sec. 13.5. Purchasing and contracts; general law applicable. All contracts of the city for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment shall be made in compliance with the requirements of Article 8, Chapter 143 of the General Statutes of North Carolina.

"ARTICLE XIV.

"Port Facilities.

"Sec. 14.1. Authority of city to acquire, construct, and maintain port facilities. The City of Wilmington, a municipal corporation in the County of New Hanover, is hereby authorized to acquire by purchase or otherwise, construct, improve, enlarge, extend and equip any property or properties relating to or deemed to be necessary or advisable for the promotion, development, maintenance or operation of port facilities of the city, including but without limitation, warehouses, docks and loading facilities, conveyor equipment, and other storage, terminal and handline facilities, and to lease any such property or properties to a public agency or instrumentality or to any private person, firm or corporation and under such terms and conditions and for such period or periods as the governing body of the city shall deem to be in the best interests of the city.

"Sec. 14.3. Powers additional to other powers. The powers granted by Sections 14.1 and 14.2 are in addition to and not in substitution for any other powers heretofore or hereafter granted to the city.

"ARTICLE XV.

"Water Supply and Sewage Disposal.

"Sec. 15.1. Authority of city council to extend water mains and pipes connected with waterworks system. The city council shall have authority to extend, construct, maintain, change the location of or discontinue the water mains and water pipes connected with its present waterworks system.

"Sec. 15.2. Authority of council as to distribution of water and as to water rates. The city council by ordinance shall have authority to regulate and control the introduction, distribution and use of water in the city, and fix the rate at which water shall be furnished to consumers, and prescribe the time of payment, and may grant a rebate for payment of such rates within a designated time, and provide for the collection of all rents, rates, forfeitures or emoluments from the operation of the waterworks system and require the payment in advance of the water rates for water furnished in or to any building, place or premises and, after five days' notice, may cause the water to be shut off from any building, place or premises on account of the nonpayment of such rates or rent.

"Sec. 15.3. Authority of city council as to interference with water supply to building and as to turning on water when shut off for failure to pay water rent. The city council shall have authority to prescribe penalties against any person who shall interfere with the water supply of any building, place or premises or who shall turn on the water in or to any building, place or premises after the same shall have been cut off and before payment of arrears in water rents.

"Sec. 15.4. Authority of city council to require connection with water mains and fix rates for connection with and use of water mains. The city council may require the owners of real property upon which residences or other buildings are located abutting upon the streets in which any water mains are located, or within a reasonable distance thereof, to connect such residences or other buildings with water mains connected with the waterworks system of the city, under such rules and regulations and upon such conditions as the city council shall by ordinance fix and establish.

The city council shall have the right to fix reasonable fees to be charged property owners for the privilege of connecting with such water mains and the subsequent use thereof.

"Sec. 15.5. Authority of city council as to collection of rates established pursuant to Section 15.4. The city council shall have the right and power to pass such ordinances as shall be necessary to enforce the collection of fees and charges established, pursuant to Section 15.4, relative to the privileges of connecting with water mains and subsequent use thereof.

"Sec. 15.6. Authority of city council to extend sewers connected with sewerage system. The city council shall have authority to extend, construct, maintain, change the location of or discontinue the sewers connected with its sewerage system.

"Sec. 15.7. Authority of council as to regulation of sewerage system and as to rates for use thereof; advance payment of connection charges or charges for use. The city council by ordinance shall have authority to regulate and control the sewerage system and all extensions thereof or additions thereto, and fix the rate at which the same may be used by the citizens of the City of Wilmington. The city council shall prescribe the time of payment and may grant a rebate for payment of such rates within a designated time, and provide for the collection of all rates, forfeitures or emoluments from the operation of the sewerage system, and require payment in advance of the rates for connecting therewith or for using the same, in any building, place or premises.

"Sec. 15.8. Authority of council as to interference with sewerage system. The city council may prescribe penalties against any person who shall interfere with any part of the sewerage system or connections with any building, place or premises, or who shall obstruct, disconnect or interfere with the same or any part thereof.

"Sec. 15.9. Authority of council to require sewer connection and to establish connection and use charges. Upon the giving of a reasonable notice in writing, which shall not be less than 30 days, the city council may require the owners of any real property upon which residences or other buildings are located abutting on the streets in which any sewers are located or within a reasonable distance thereof, to connect such residences or other buildings, with such public sewers under such reasonable rules and regulations, and upon such conditions, as the city council shall by ordinance fix and establish, in which shall be included the

right to fix reasonable fees and rates to be charged such property owners for the privilege of connecting with such sewers and the subsequent use thereof.

"Sec. 15.10. Failure to make sewer connections when required by council. For failure to make sewer connections when required by council, the property owner is guilty of a misdemeanor and is subject to a fine of fifty dollars ($50.00) per day for each day violation persists.

"Sec. 15.11. Authority of council to enforce collection of sewerage connection and use charges. The city council shall have the right and power to pass such ordinances as shall be necessary to enforce the collection of all such fees and charges provided for in Sections 15.6 to 15.10 as to connection with and use of sewerage system and extensions of and additons thereto.

"Sec. 15.12. Examination of premises when waste of water is known or suspected. Where unnecessary waste of water is known or suspected, the city council shall have the authority to cause entry to be made, at reasonable hours, after demand and refusal, into and upon any building, place or premises where such water is taken and used, and examine and inquire into the cause of the waste thereof, and may prescribe penalties for any person who refuses to permit such examination or obstructs the performance of this duty. The supply of water may be cut off until such examination is made.

"Sec. 15.13. Accounts of receipts on account of operation of waterworks and sewerage systems. Accurate account shall be kept of all receipts and disbursements and expenditures on account of the operation of the waterworks and sewerage systems separate from the other funds of the city.

"Sec. 15.14. Diversion of water; pollution of water; injuring, destroying, water or sewerage systems. If any person shall maliciously or willfully divert the water, or any portion thereof, from the city waterworks, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe or other property used or acquired for procuring or distributing the water, or connected with the sewerage system of the City of Wilmington, or any part of same, or shall otherwise interfere with, injure, destroy or change either the water or sewerage systems, or any part of the same, the person shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding five hundred dollars ($500.00) or shall be imprisoned not exceeding two years, at the discretion of the court.

"Sec. 15.15. Use of ground within railway right-of-way, street, for extending waterworks or sewerage systems. The city council shall have the right to use the ground or soil within the right-of-way of any railway, highway, public lane or alley, for the purpose of extending or improving, enlarging or adding to the waterworks of sewerage systems and may carry pipes under any railroad or highway for such purposes, under condition that such property shall not be permanently injured and shall be restored to its original condition or damages done thereto repaired as expeditiously as may be reasonable and with as little inconvenience to the owners of such disturbed property as may be actually necessary.

"Sec. 15.16. Enforcement of connections with water system; record book for water and sewerage connections. Whenever it shall become necessary, in the opinion of the city council that any premises now occupied or which may hereafter be occupied should be connected with the water system of the city, and the owner or agent of such premises shall fail to make such connection voluntarily, at his own expense, or neglect to do so, the city council of the city

shall have the right and power to enforce such connection in manner and form following: The city council shall cause a notice to be served in writing upon the owner of such building or premises or his agent, and if neither the owner nor agent can be located, then a notice placed conspicuously upon the premises itself shall be sufficient for such purpose, designating a time within which such owner is required to make such connection with the waterworks system of the city, and if at the expiration of the time designated in such notice such owner or agent shall have failed, refused or neglected to make such connection or to give satisfactory proof to the city council of his purpose and intention so to do within a reasonable time, the city council may cause such connections with the waterworks system of the city to be made by and under the supervision and direction of the director of public works of the City of Wilmington, subject to the supervision and control of the city manager as to cost of the same, and shall pay the cost of making such connection and the cost thereof, furnished by the city manager, shall be entered by the city clerk and treasurer in a book to be designated "Water and Sewerage Connections," which book shall be kept by him and be preserved as a record in his office for public examination, and the amount of such costs from the time of the completion of such work and the entry thereof on such book shall be and constitute a lien upon the property whereon such connections were made, of equal dignity to taxes, and shall be collected in manner and form as hereinafter provided.

"Sec. 15.17. Making water and sewer connections when property owner is nonresident, infant. Whenever and wherever, for reasons satisfactory to the city council, it shall be made to appear that the owner or owners of premises cannot be found, nor any representatives of them can be located in the City of Wilmington, or that such owners are infants, incompetents, indigents or prisoners, the city council may cause the work of making connections with either the water or sewerage system, or both, to be done by the City of Wilmington under the supervision of the director of public works, subject to the supervision of the city manager as to the cost of same, and may provide the material and cost of doing the work at its own expense, and in the cost thereof may include an item of sufficient amount to reimburse the city for the services of its officers and time expended by them in making the same. The total cost of the work shall be entered upon the book provided for in Section 17.16, and shall be a lien upon the premises of equal dignity to taxes, and shall be collected as hereinafter provided.

"Sec. 15.18. Interest on and procedure for collection of connection costs. The total cost against each property owner entered upon the book provided for in Section 15.16 shall bear interest from the date of entry at the rate to be established by the city council not to exceed the legal rate authorized by the General Statutes of North Carolina, and the time of payment thereof shall be fixed and determined by the city council and, upon default in the payment thereof by such owner within the time therein prescribed, the same shall be collected by the City of Wilmington by an action to be brought in any court of competent jurisdiction. The service of the summons in such action shall be as provided by State law. In such action and on the trial thereof the entry in the book so provided for, or a certified copy thereof under the head of the city clerk, with the corporate seal of the City of Wilmington attached thereto, shall be prima facie evidence of all the facts and things therein stated and the only defense, which the defendant in such action may set up in opposition thereto

shall be a denial of the fact that the costs therein set forth were incurred or that the same have been paid.

A certificate of the city clerk under seal of the city, wherein the City of Wilmington shall be recited as the plaintiff and the name of the owner or owners of the premises recited as the defendants, together with a sufficiently definite recital of the premises to identify the same, and the amount of costs incurred in the making of the connections, and when the same was paid by the city, shall constitute a sufficient complaint in such an action.

And judgment shall be entered by the court condemning such property to sale and a date fixed for such sale. Notice of such sale shall be given by publication once a week for four weeks in a daily newspaper published in the City of Wilmington and the first publication thereof shall be 30 days prior to such sale. Such sale shall be made by and under the supervision and control of the court who shall appoint a commissioner for such purpose. Such commissioner shall report to such court all his acts and doings in the premises for confirmation and, upon confirmation, the judgment of the court shall provide for all the costs and expenses of such action, including an allowance of ten percent (10%) to the commission, and any balance which may remain after the payment of the costs and expenses of such action and the judgment in favor of the city shall be paid into the office of the clerk of the superior court for the benefit of the owner or owners of the property.

In all such cases either party shall have the right of appeal from a final judgment entered therein, upon giving bond, with sufficient security, the amount of which shall be fixed by the court and the surety to be approved by the clerk thereof, conditioned for the performance and payment of such judgment on the part of the defendant, if the defendant shall appeal, together with the costs of the action, the amount of which bond shall be at least double the amount of judgment rendered in favor of the city and one-half as much more, to cover the costs of the action. If the city appeals, no bond shall be required. On such appeal a transcript of the record in the trial court, duly certified by the clerk of such court, shall constitute the record in the court to which such action is appealed, and such appeal shall be heard in such court as similar actions. All judgments and decrees entered in any such action shall be entered upon the records in the office of the clerk of the trial court and docketed in like manner as judgments of such are required to be entered and docketed by law and shall have like force and effect of such judgments.

"ARTICLE XVI.

"Closing of Public Streets and Alleys.

"Sec. 16.1. Closing of public streets and alleys. (a) The city council shall have the power to close any public street or alley or portion thereof that is now or may hereafter be opened or dedicated, either by the recording of a plat or otherwise except public streets or alleys for public streets under the control and supervision of the Board of Transportation, such closing to be pursuant to North Carolina General Statute 160A-299. Upon receipt of a sufficient application and petition signed by the majority of property owners owning the majority of the property abutting the public street or alley, requesting the closing, and after an investigation of the sufficiency of the application and petition by the city attorney or other designated individual or agency, and after a review and recommendation by the planning commission, the city council may adopt a resolution declaring the intent to close the public street or alley and

calling a public hearing on the question. The resolution shall be: (1) published once a week for four successive weeks prior to the hearing; (2) a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the New Hanover County tax records; and, (3) a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the public streets or alleys are under the authority and control of the Board of Transportation, a copy of the resolution shall be mailed to the Board of Transportation. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the city council after the hearing that the closing is not contrary to the public interest, and that no individual owning property in the vicinity of the public street, passageway, or easement or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the city council may adopt an order closing the public street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the Register of Deeds of New Hanover County.

(b) Any person aggrieved by the closing of any public street or alley may appeal the council's order to the General Court of Justice within 30 days after its adoption. The court shall hear the matter de novo, and shall have full jurisdiction to try the issues arising and to order the public street or alley closed upon proper findings of fact by the jury. No cause of action or defense founded upon the invalidity of any proceedings taken in closing any public street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted.

(c) Upon the closing of a public street or alley in accordance with this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the public street or alley and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the public street or alley.

(d) This shall apply to any public street or alley that has been irrevocably dedicated to the public, without regard to whether it has actually been opened.

(e) The resolution ordering the closing of the public street or alley may provide for utility rights-of-way to be retained by the city or public utility company, if needed.

(f) No public street or alley under the control of the Board of Transportation may be closed unless the Board of Transportation consents thereto.

(g) A fee shall be paid to the city by the applicant upon and regardless of the final action by the city council, to cover the cost of advertising and other administrative expenses incurred for the closing of the public street or alley.

"ARTICLE XVII.

"Establishment of Proposed Street Lines.

"Sec. 17.1. Authorized; notice and hearing. Whenever in the opinion of the city council, it is for the best interest of the city that any street should be widened or extended, or both, or that a new street should be widened or extended, or both, or that such new street should be opened, or shall lay out in the ordinance the lines within which such streets should be widened, extended, or opened. If any street under the provisions of such ordinance is to be widened,

it need not be widened on both sides; and, if it is to be widened on both sides, the distance to be widened on both sides need not be the same. Any ordinance introduced for the purpose of widening, extending, or opening any street under the provisions of this charter, may not be adopted until the proposed ordinance is published in the newspaper published in the city and qualified to carry legal notices at least two times, on separate days, at least 10 days before the passage of the ordinance, or, if there be no such newspaper, posted in three public places in the city. There shall be posted or published with the ordinance a notice stating when property owners may be heard by the council. A public hearing on the question of the adoption of such ordinance shall be held prior to the passage of the ordinance. Council may refer the matter to the Wilmington-New Hanover Planning Commission for study and recommendations, but no public hearing shall be necessary before the planning commission.

"Sec. 17.2. Notice to city prerequisite to improvement in proposed street lines. After the passage of such ordinance, it shall be unlawful for any land within the proposed street lines established by such ordinance to be built upon or improved, or for any part of any existing building within such lines to be repaired or otherwise improved until the city shall have been given an opportunity to purchase or otherwise acquire such property for street purposes as provided in this charter. To that end, any person proposing to build upon such land or to make repairs or improvements to that part of any existing building situated thereon shall, in writing, notify the city council of the nature and estimated cost of such building, repairs, or improvements. The council shall then determine whether it will take the necessary steps to acquire such property prior to the construction of such building or the making of such repairs or improvements and if it fails from 60 days from date of receipt of such notice to acquire, or to institute condemnation proceedings to acquire such property, the owner or other person giving such notice may proceed to erect the building in accordance with the ordinances and regulations of the city, or to make the repairs or improvements described in such notice.

"Sec. 17. 3. Failure to give notice bars recovery for improvements. If any person, firm, or corporation builds upon any land included within proposed street lines, or repairs or otherwise improves that part of any existing building within the proposed street lines without giving the city an opportunity to acquire such land free from such improvements, as provided in the preceding section, the city shall not be required to pay for the value of the building, repairs, or improvements in any proceedings subsequently brought to acquire such land for the purpose set out in the preceding section.

"Sec. 17.4. Acquisition of land prior to improvement. If upon receiving a notice in compliance with Section 17.2 the city council determines to acquire such land immediately, it may acquire the same by grant, purchase, or condemnation. In no case shall an effort to purchase such land be necessary to the institution of condemnation proceedings. If the council determines to proceed by condemnation, the condemnation shall be as set forth in this charter.

"Sec. 17.5. Cost of land acquired to be assessed as part of improvements. After any land has been purchased or condemned for the purpose of widening, extending, or opening any street, and land purchased or condemned lies within the limits of an improvement directed in such proceedings, then the amount paid by the city for the land purchased or condemned, together with the cost of

the condemnation proceeding and interest on such amount paid and costs at the rate of six percent (6%) per annum from the date of payment, shall be included in the cost of such improvement and shall be assessed as provided by law against the property to be assessed for the improvements.

"Sec. 17.6. Exercise of condemnation power after failure of city to acquire following notice of improvement. The failure of the city to acquire any land within 60 days after receiving notice that the same is to be built upon, or that a building thereon is to be repaired or otherwise improved, or its failure within such time to institute proceedings to condemn same, shall not limit the right of the city at any subsequent time to condemn the same; but in such case the owner shall be entitled to compensation as now provided by law for the building, repairs, or improvements made after the giving of the required notice and the failure of the city to acquire such land free of such improvements.

"ARTICLE XVIII.

"Eminent Domain.

"Sec. 18.1. Authority of city generally; interest acquired; proceedings against infants. The City of Wilmington shall possess the power of eminent domain, and may acquire, either by purchase or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land or water, including the dwelling house, yard, kitchen, garden or burial ground of any person, without regard to the limitations of Section 40-10 of the General Statutes of the State, either within or beyond the city limits, including and limited to a right-of-way in and across lands owned and held as right-of-way by a railroad or other public utility company; provided, that the operation of such railroad or other public utility company may not be impaired unreasonably thereby, for any lawful public use or purpose. Unless otherwise expressly provided in the condemnation resolution a fee simple title shall pass to the city upon the condemnation of any such interests. In any case where the owner of land to be condemned or any interest therein is a minor, an insane person, or otherwise under any disability, any notice hereinafter required by this division to be served upon such owner shall be served upon his guardian, and service upon such guardian shall be sufficient without service on the minor, insane person, or person under disability. Thereafter such guardian may exercise, on behalf of his ward with respect to such condemnation proceeding, all the powers conferred upon such person as owner. Water rights, or other interests relating to water, may be condemned under the procedure set forth in this division for the condemnation of land, and the interests therein.

"Sec. 18.2. Effort to purchase not prerequisite to condemnation. It shall not be necessary to the condemnation by the city of any land or interest therein, whether pursuant to this division or otherwise, that the city shall have attempted to acquire the needed land by grant or purchase prior to the commencement of the condemnation proceedings.

"Sec. 18.3. Resolution proposing condemnation. (a) When any land required by the city for any purpose allowed by this charter, or the general law of the State is proposed to be condemned under the specific provisions of this charter, the city council shall adopt a resolution which shall contain substantially the following provisions:

(1) A description of the land proposed to be condemned in fee, or of the interest or easement proposed to be condemned.

(2) If there is any building or other property situated wholly, or partly upon the land to be condemned, the determination of the city council as to whether the owner shall be allowed to remove such property, or whether the same shall be condemned.

(3) A statement of the purpose for which said land or easement is proposed to be condemned.

(4) The name and address of the owner, or owners, of said land and of any other person or persons interested therein whom it is necessary to make a party to the proceeding.

(5) The name of a disinterested freeholder of the city, appointed as appraiser by the city council.

(6) A notice that the owner, or owners, of such land, or interest therein, or a majority in interest of such owners, may, within 15 days of service of such resolution upon all of them, appoint one appraiser, who shall be a disinterested freeholder of the city to represent them, the name of which appraiser shall be reported in writing to the city clerk within such 15 days.

(7) A notice that the appraiser appointed by the city, and the appraiser appointed by the owner or owners, or if the owner or owners fail to appoint, then the two appraisers appointed by the city, shall appoint a third appraiser, and the three thus appointed shall constitute a board of appraisers, whose duty it shall be to determine the damages and benefits which will result from the condemnation of such land or easement or interest therein.

(8) A notice of the time fixed for the first meeting of the appraisers, and if such meeting will be held upon the premises to be condemned.

(b) It shall not be necessary to institute separate condemnation proceedings against the several owners of tracts or parcels of land affected by proposed local improvements.

"Sec. 18.4. Service. A copy of the resolution proposing condemnation shall be personally served upon each of the owners of land proposed to be condemned; provided, that if the resolution cannot be personally served upon any of the owners then it may be served by publication once a week, for two successive weeks in some newspaper published in the city, which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the city.

"Sec. 18.5. Failure of owners to appoint appraisers. If within 15 days after service of the resolution upon all of the owners, they, or a majority in interest of them, fail to appoint an appraiser and to report his name to the city clerk, the city council shall appoint a disinterested freeholder of the city to represent them.

"Sec. 18.6. Appointment of third appraiser; oath of appraisers. The appraiser appointed by the city council and the appraiser appointed by the property owner, or owners, or if the owner, or owners, fail to appoint, then the two appraisers appointed by the city council, shall appoint a third appraiser, who shall be a disinterested freeholder of the city, and shall report his name to the city clerk. Each appraiser shall take an oath or affirmation that he will fairly and impartially discharge his duties as an appraiser.

"Sec. 18.7. First meeting of appraisers. At the time fixed by the resolution of condemnation, the appraisers shall meet on the premises to be condemned. If,

for any reason the meeting cannot be held at the time fixed by the appraisers, in which case notice of the time and place of the meeting shall be personally served, then it may be served by publication once a week for two successive weeks in some newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the city. The notice, whether given personally, by publication, or by posting, shall be served not less than five days prior to the date of the hearing. At the first meeting the appraisers shall view the premises affected by the proposed condemnation; and shall hear, but need not reduce to writing, any evidence as to damages and benefits that will result from the proposed condemnation presented by the owners or by the city. The appraisers shall make their report at, or after the hearing, or they may, in their discretion, hold subsequent meetings.

"Sec. 18.8. Subsequent meetings of appraisers; when notice required. Subsequent meetings of the appraisers shall be held at such time and places as may be determined by them. Of such meetings no notice need be given, either to the owners or to the city, unless such meetings are to be public and for the purpose of hearing evidence. If held for such purpose, then unless such meeting is held at a time and place to which a former meeting of which the parties had lawful notice was adjourned, notice of the meeting shall be personally served upon all parties, or, if such service cannot be personally served, it may be served by publication once a week for two successive weeks in a newspaper published in the city, which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the city. The notice shall be served, or publication or posting thereof completed not less than five days prior to the time fixed for the meeting.

"Sec. 18.9. Determination of damages and benefits; report. Determining the compensation to be paid by the city for the land or easement condemned, the appraisers shall take into consideration both the loss or damage which will result to the owners from the condemnation of the land or easement and the benefits that will result to any remainder of such land from the improvement for which the land or easement is to be condemned, the benefits to include both benefits for advantages special to the land, and benefits or advantages to the land, in common with other lands affected by the improvement. The appraisers shall also take into consideration the value of any building or other property situated upon the land proposed to be condemned, if the owner is to be allowed to remove the building or other property, and the value thereof shall not be included in the compensation award. Having determined damages and benefits, the appraisers shall make their report to the city council, in which report the appraisers shall show separately the amount of damages, the amount of benefits, and the amount which shall be paid by the city if it finally condemns the land or easement. In the event the property condemned is subject to a recorded lease, or leases, the appraisers shall apportion the award between, or among, the person or persons owning fee or fees and the person or persons owning the sole interest or interests; but in no event shall the total of the amount so apportioned exceed the value of the property were it not subject to a recorded lease or leases. The report shall be sufficient if it is concurred in by two of three appraisers. In the event that no two of the three appraisers can agree upon an appraisal, three new appraisers may be appointed in the same

manner as the original appraisers, and the new appraisal board shall follow the same procedure as required of the original appraisal board.

"Sec. 18.10. Action of council on report of appraisers. Within 30 days after the report of the appraisers is submitted to the city council, the council shall determine what action it will take thereon. If the council determines to abandon the proposed condemnation, it shall adopt a resolution to that effect; but the abandonment of the condemnation shall not prevent the city council from thereafter instituting a proceeding to condemn the same land or easement. If the council determines to condemn the land or easement, it shall adopt a resolution which shall contain substantially the following:

(1) A recital that a board of appraisers has been appointed to determine the compensation to be paid for the land or easement, as provided by this charter, and that the appraisers have submitted a report to the council.

(2) A statement of the amount of damages and benefits as fixed by the appraisers and of the compensation to be paid by the city for the land or easement condemned as fixed by the appraisers.

(3) The determination of the council as to the condemnation of the land or easement.

(4) A description of the land condemned in fee, or of the easement condemned.

(5) A statement of the purpose for which the land or easement is condemned.

(6) The name of the owner or owners of the land and of other persons interested therein who were made parties to the proceeding.

(7) The determination of the council as to the time when the city will take possession of the land or easement condemned, and a direction that such premises shall be vacated by such time, and, in case the owner is allowed to remove any building or part thereof, or any other property on the premises, a direction that such property shall be removed before said date and that if the owner fails to remove the same within such time, the council will have the same removed and the cost thereof shall be a lien upon the remainder of the property.

"Sec. 18.11. Vesting of title in city. The adoption by the city council of a final resolution of condemnation, as provided in the preceding section shall have the effect of a judgment against the City of Wilmington for the amount of compensation fixed by the appraisers, and shall vest in the city title to the land or easement condemned.

"Sec. 18.12. Appeal to superior court. If upon the adoption by the city council of a final resolution of condemnation, either the owner of the land or easement condemned or the city council itself is dissatisfied with the amount of the compensation to be paid for such land or easement as fixed by the appraisers, such owner, or the city, or both may, within 10 days after the date of the adoption of such resolution, appeal to the Superior Court of New Hanover County. The party, or parties, appealing shall, within such 10 days, give notice of appeal to the other party by personal service if practicable and, if not, by publication of a notice one time in a newspaper published in the city, which is qualified to carry legal notices. The appeal, or appeals shall not interfere with the vesting in the city of title to the land or easement condemned or hinder the city in any way in proceeding with the improvements for which such land or easement was condemned, except that if the land or interest therein is owned by another public or quasi-public body, or by a railroad or public utility company,

the vesting of title in the city shall not become effective until the court has rendered final judgment on the question of whether the condemnation by the city is in the public interest, and has determined the amount of compensation to be awarded for the condemnation, in which case the court may, in its discretion, reduce the amount of land, or interest therein, which it shall allow to be condemned.

"Sec. 18.13. Record upon appeal. Upon the appeal taken by either party, the city clerk shall certify a copy of the record in the condemnation proceeding to the Superior Court of New Hanover County, and such appeal shall be tried as other actions at law. The record upon appeal shall be composed of the preliminary resolution of condemnation, the oath of appraisers, the report of appraisals, the final resolution of condemnation, and the notice, or notices of appeal. The record upon appeal, or any part thereof, shall be competent as evidence upon the trial of an appeal.

"Sec. 18.14. Condemnation before determination of compensation. When, in the judgment of the city council, the public interest requires that the city enter into immediate possession of any land, it shall adopt a resolution stating such necessity, and the reason therefor, and condemning the required land or easement, and providing for the determination of the compensation to be paid by the city for the land or easement. The procedure therefor with respect to determination of such compensation shall follow as closely as practical the provisions of this Article, or of the provisions of general law concerning 'Eminent Domain'. This section shall not apply to land, or interest therein, owned by another public or quasi-public party, or railroad or public utility company.

"Sec. 18.15. Registration of condemnation proceedings. In any case where any land or easement therein has been, or may hereafter be condemned by the city council, a copy of so much of the condemnation proceedings as may be necessary to show the land or easement therein condemned and the condemnation thereof shall be certified by the city clerk and the same, upon being probated by the clerk of the superior court, or other person authorized by law to probate instruments for registration, shall be registered in the office of the Register of Deeds of New Hanover County.

"Sec. 18.16. Sale or other disposition of land condemned. When any land condemned in fee by the city is no longer needed for the purpose for which it was condemned, the same may be used by the city for any other public purpose, or may be sold or otherwise disposed of according to law.

"Sec. 18.17. Removal by city of structures on condemned land; lien. When any property upon which any building or other structure is wholly or partly located, is condemned by the city under the provisions of this charter, or any other law, and the owner is allowed to remove such building or structure, or part thereof, the city council may, after the report of the appraisers has been made, name the time within which the owner may remove the building or structure, or part thereof, and if the owner fails to remove the same within such time, the council may remove the same and the cost thereof shall be a lien upon the remainder of the land, or such cost may be recovered by the city in any court of competent jurisdiction.

"Sec. 18.18. Procedure not exclusive. The condemnation procedure set forth in this division shall not be exclusive, but shall be in addition to any other procedure provided by law.

"Sec. 18.19. Procedure not applicable outside New Hanover County. The condemnation procedure set forth in Article 2 of Chapter 40 of the General Statutes of North Carolina, and not the procedure set forth in this division, shall be applicable to the exercise of the power of eminent domain by the city for the condemnation of any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land or water which is, or are, located outside of the geographic boundaries of New Hanover County.

"ARTICLE XIX.

"Local Improvements.

"Sec. 19.1. Definitions. Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended:

'Lateral'. A 'lateral' is a pipe connecting a storm or sanitary sewer or water main with the line of adjacent property or the curb line, being either a sewer lateral or water lateral, but does not include a building connection, that is, a pipe extended from a lateral at the property line or curb line to the house or plumbing fixture to be served.

'Roadway'. A 'roadway' is the part of a street which is used, or to be used, for vehicular traffic.

'Sanitary sewer'. A 'sanitary sewer' is an underground conduit for the passage of sewage and may include a pumping station and outlet.

'Sewer'. The word 'sewer' includes both sanitary and storm sewers unless a contrary intention is shown.

'Sidewalk'. A 'sidewalk' is the part of a street which is used, or to be used, for pedestrian traffic.

'Storm sewer'. A 'storm sewer' is a conduit above or below ground for the passage of storm water, and may include a pumping station and outlet where deemed necessary, and may also include the building of culverts over or the enclosing of streams where needed to carry off storm water.

'Street'. A 'street' is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or opened to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic. The term 'street' when used herein, shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, causeway, and sidewalk lying within a public right-of-way, dedicated or devoted to public use.

'Water main'. A 'water main' is a pipe for the passage of city water for public hydrants and private and public use and consumption.

"Sec. 19.2. Authority of city generally. The City Council of the City of Wilmington shall have authority to make local improvements described in this charter, to undertake same without assessment, or to assess the cost of such local improvements against the benefited property. The procedure set forth in this division shall not be exclusive, but shall be in addition to any other procedure provided by law, specifically that procedure contained in Article 10, Special Assessments, Sections 160A-216 through 160A-236, of the General Statutes of North Carolina, as they now exist or may hereafter be amended.

Any procedure not specifically covered in this charter shall be accomplished in accordance with Article 10, Special Assessments, Chapter 160A, General Statutes of North Carolina, insofar as this division is applicable to the particular proceeding.

The city council shall have full power and authority, by ordinance, to grade, pave, repave, and otherwise permanently improve for travel and drainage any street, sidewalk, or public alley of the city; to put down curbing, cross-drainage, and crossings on the same; and to lay out and bound new streets, or widen those already bounded, and make such improvements thereon as the public convenience may require. The city council shall also have full power and authority by ordinance to construct, reconstruct, extend or alter sanitary sewers, water mains, or storm sewers, or to make such other public improvements as it shall deem to be in the public interest.

The city council shall have authority to make the following local improvements:

(a) Roadway paving improvements, which include the grading, regrading, paving, repaving and widening of roadways, or the improvement thereof with any treatment designed to provide an improved wearing surface, with necessary drainage, sewer inlets, manholes and catch basins and the construction or reconstruction of retaining walls made necessary by any change in grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case where the improvement is made without petition if the council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and sidewalks.

(b) Water main improvements, which include the laying or construction of water mains, the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains, and, in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the council so directs, the laying of water laterals.

(c) Sanitary sewer improvements, which include the laying or construction of sanitary sewers, the relaying, where necessary, of parts of roadways and sidewalks torn up or damaged by the laying of or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where improvement is made without petition and the city council so directs, the laying of sanitary sewer laterals.

(d) Storm sewer improvements, which include the laying or construction of storm sewers, the relaying, where necessary, of parts of paved roadways and sidewalks torn up or damaged by the laying of or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the council so directs, the laying of storm sewer laterals.

(e) Sidewalk improvements, which include the grading, regrading, construction, reconstruction and repair of paved or other improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvements, and, in any case where the improvement is made without petition if the council so directs, it may include the construction or reconstruction of curbs, gutters and drains, and the construction and reconstruction of all such portions of driveways as in the judgment of the council ought to be laid within the street area.

(f) Grass plot improvements, which include the grading and planting of grass plots in a street.

"Sec. 19.3. Land subject to assessment generally. No lands in the city, including property of the State of North Carolina, its agencies or subdivisions,

shall be exempt from special assessments except the lands belonging to the United States, which are exempt under the provisions of federal statutes, and the city council and the officers, trustees or boards of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

"Sec. 19.4. Inclusion of more than one improvement in single proceeding. (a) Any proceeding may include one or more local improvements on one or more streets, but all improvements included in one procedure shall be practically uniform in cost and kind. A petition may include the improvements on only one side of a street.

(b) The petition may provide for making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof, except the city's portion, wholly against the property abutting one side of such street or streets or otherwise against such abutting property as may be designated in the petition in any of the following cases:

(1) Any case where there is park land or unimproved land abutting one side, or a part of one side, of a street.

(2) Where the land abutting one side, or a part of one side of a street, is of such a nature or is devoted to such a purpose that special assessment against it cannot be made, or, if made would probably exceed the value of the land assessed.

(3) Where the owners of all the property to be assessed agree thereto.

"Sec. 19.5. Petition generally, certificate sufficiency. (a) Except as otherwise provided in subsection (b) of this section, the petition for any local improvements shall designate by a general description the improvements proposed, and shall request that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the abutting property on the street or streets or part thereof in which or on which such improvements are proposed to be made. The petition shall be filed with the city attorney.

(b) (1) In any case where the improvement is to be made on one side of a street only, the petition shall request that the assessment be made only against the property abutting that side of the street whereon the improvement is to be made.

(2) In any case where it is proposed to assess the cost of any local improvement covering the entire width of a street against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, such petition shall designate the lands to be assessed.

(c) Except as otherwise provided in subsection (d) of this section, the petition shall be signed by at least a majority in number of the owners, which majority must own at least a majority of all the lineal feet of frontage, of the lands abutting the street or streets or part of a street or streets proposed to be improved, excluding the street intersections.

(d) (1) A petition for the making of local improvements on one side of the street only need be signed only by a majority in number of the owners of land abutting the side of the street whereon such improvement is to be made, which majority must own at least a majority of all the lineal feet of

the frontage of the land abutting such side of the street, excluding street intersections.

(2) Any petition for the making of any improvements covering the entire width of the street and the assessment of the costs thereof against the land abutting one side of the street only or against any lands less than all of these abutting the improved portion of the street shall be signed by all of the owners of the lands thus proposed to be assessed.

(e) (1) For the purpose of the petition, all of the owners of undivided interests in any lands shall be deemed and treated as one person and such lands shall be sufficiently signed for when the petition is signed by the owner or owners of a majority in amount of such undivided interest.

(2) For the purpose of this section the word 'owner' shall be considered to include the owners of any life estate, of any estate by entirety, or of the estate of inheritance, and shall not include mortgages, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights of courtesy or dower.

(f) Upon the filing of such petition, the city attorney shall investigate the sufficiency of the petition, and if it is found to be sufficient, he shall certify the same to the council.

"Sec. 19.6. When petition unnecessary. (a) City to pay cost. No petition shall be necessary for the making of any local improvements for which the city bears the entire cost without assessment.

(b) Benefit of least equal to assessment. If, in the judgment of the city council, the abutting property to be assessed will be benefited in an amount at least equal to the assessment, no petition for local improvement shall be necessary in the cases set forth in subsections (c) through (g) of this section.

(c) Street paving improvements. When, in the judgment of the council:

(1) Any street or part of a street is unsafe; or

(2) The improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or

(3) The improvement of a street or part of a street is necessary to connect a paved street, or portions thereof within the city with a paved highway beyond the city limits; or

(4) The improvement of a street or part of a street is necessary to provide a paved approach to a railroad or street grade separation or any bridge; or

(5) Any street or part of a street should be widened.

(d) Water main improvements. When, in the judgment of the council, any street or part of a street, or any property within the city, is without a public water supply and can be served, and water service should be provided in the public interest.

(e) Sanitary sewer improvements. When, in the judgment of the council, any street or part of a street or any property within the city is without a public sanitary sewer and can be served, and sanitary sewer service should be provided in the public interest.

(f) Storm sewer improvements. When, in the judgment of the council, any street or part of a street, or any property within the city, is without storm sewer facilities, and can be served, and storm sewers should be provided in the public interest.

(g) Sidewalk improvements. When, in the judgment of the council, any street or part of a street is without sidewalks and sidewalks should be provided in the public interest, or that any existing sidewalk is unsafe and should be repaired.

"Sec. 19.7. Public hearing; notice. (a) Upon the presentation of a sufficient petition for local improvements, or when it is proposed to make without petition any improvements authorized to be made without petition, a notice shall be prepared by the city attorney which shall contain substantially the following:

(1) That a sufficient petition has been filed for the making of the improvements, or, if it is proposed to make the improvements without petition, a statement of the reasons proposed for the making thereof.

(2) A brief description of the proposed improvements.

(3) The proportion of the cost of the improvements to be assessed and the terms of payment.

(4) A statement of the time and place of the public hearing on the proposed improvements.

(5) A statement that all objections to the legality of the making of the proposed improvements shall be made in writing, signed in person or by attorney, and filed with the city clerk at or before the time of the hearing, and that any objections not so made will be waived.

(b) The notice shall be published one time in a newspaper published in the city which is qualified to carry legal notices, or if there be no such newspaper, the city clerk shall cause it to be posted in three public places in the city, the date of the publication or posting to be not less than 10 days prior to the date fixed for the hearing. A copy of the notice shall be served upon the owners of the lands subject to assessment for such improvements if such owners can be found with reasonable diligence within the city. If any such owner cannot with reasonable diligence be found within the city, then a copy of the notice shall be mailed to his address as nearly as the same can be ascertained with due diligence. The certificate of the person designated to serve or mail the notices that such notices were served or mailed shall be conclusive in the absence of fraud. The serving or mailing of notices shall be completed not less than five days prior to the date fixed for the hearing. The word 'owners' as used herein has the same meaning as in Section 19.5.

(c) At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the council shall consider objections to the legality of the improvements made in compliance with paragraph (5) of subsection (a) of this section, together with objections to the policy or expediency of the making of the improvements, and the council shall thereafter determine whether it will order the making of the improvements. Any objections to the legality of the making of the improvements not made in writing, signed in person or by attorney, and filed with the city clerk at or before the time or adjourned time of the hearing shall be considered as waived; and if any such objection shall be made and shall not be sustained by the council, the adoption of the resolution ordering the making of the improvements shall be final adjudication of the issues presented, unless within 10 days after the adoption of the resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

"Sec. 19.8. Resolution ordering improvements; publication. (a) After the public hearing, if the council determines to make the improvements proposed, it shall adopt a resolution which shall contain:

(1) If the improvements are to be made by petition, a finding by the council of such facts as are required in order to authorize improvements without petition.

(2) If the improvements are to be made without petition, a finding of the council of such facts as are required in order to authorize improvements without petition.

(3) A general description of the improvements to be made and the designation of the street or streets or parts thereof where the work is to be done.

(4) If the improvement directed to be made is the paving of a roadway or part thereof wherein a railroad company has tracks, a direction that such company pave that part of the street occupied by its tracks, the rails of the tracks, and 18 inches in width outside such tracks, with such material and in such manner as the city council may prescribe, and that unless such paving be completed on or before a day specified in the resolution, the city council will cause the same to be done and direct that assessment be made against the owning railroad company for the cost of such work.

(5) If the improvement directed to be made includes the construction of water mains or sewers, and in order to provide the mains or sewers in the street or streets to be improved it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains and sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made but that assessments shall not be made until such time as the council shall thereafter determine by appropriate resolution.

(6) If the improvement directed to be made is the paving of a roadway or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved, connect his lot by means of laterals with water mains, or sewer pipes, or any one or more thereof located in the street adjacent to his premises in accordance with the requirements governing the laying of laterals, and that unless the owners cause laterals to be laid on or before a date specified in the resolution, the date to be not less than 30 days after the date of the resolution, the council will cause the same to be laid.

(7) A designation of the proportion of the cost of the improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid.

(b) The resolution after its passage shall be published at least once in some newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, the resolution shall be posted in three public places in the city for at least five days; except, that in any case where the council directed that the notice should be served or mailed instead of being published,

the resolution ordering the improvements need not be either published or posted.

"Sec. 19.9. Upon the advice of the Department of Public Works and Engineering and Services, the city council shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any local improvements and to determine whether any work to be done by the city shall be done by contract or by city forces. The council shall have power also, unless otherwise limited, to determine the number of water and sewer laterals that shall be laid to any lot on any street to be improved. If the work, or any part thereof, is to be done by contract, the council may let all of the work in one contract, or it may divide it into several contracts, and may let contracts separately.

"Sec. 19.10. Determination as to cost of improvements. Upon completion of the improvements, the city council shall ascertain the total cost. In addition to other items of cost, there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of damages, and the cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building, and the cost of acquisition of right-of-way which is necessary for the improvement. The determination of the council as to the total cost of any improvement shall be conclusive.

"Sec. 19.11. Preliminary assessment. (a) Having determined the total cost, the council shall make a preliminary assessment. The preliminary assessment shall be advisory only and shall be subject to modification. Except as otherwise provided in subsection (b) of this section, the preliminary assessment shall be as follows:

(1) Roadway paving. No assessment shall be levied for the following costs:

(A) The cost incurred at public street or alley intersections.

(B) On streets abutting residential property, that cost of pavement in excess of 30 feet in width, exclusive of curb and gutter, which cost shall be borne by the city.

Fifty percent (50%) of the cost of any roadway paving improvement (excepting A and B above) shall be specially assessed against the lots and parcels of land abutting the street containing the roadway paved, according to the frontages thereon, by an equal rate per foot of frontage, except that, where the petition so requested, the entire cost shall be assessed against the lands on one side of the street only, or against such lands as were designated in the petition.

In lieu of the above stated rate of assessment of 50 percent (50%) of the cost, the council may designate a uniform cost per front foot to be assessed for pavements installed during a certain period of time.

For the purpose of assessing for roadway pavement on a residential street, a 30-foot wide street (exclusive of the width of curb and gutter) shall be deemed sufficient for ingress and egress to residential property. An assessment covering the cost of construction, reconstruction, or widening of a street abutting residential property shall not be greater than would have been necessary to provide this 30-foot wide street. In computing the assessment, the property owner shall be charged with the cost of the curb and gutter plus the roadway

construction costs for a 30-foot wide pavement. This provision has no application to the assessment of the costs of sidewalks or driveways, the cost of which improvements are to be assessed entirely or partially to the abutting frontage, or to storm or sanitary sewers or water mains, which costs are to be assessed as provided under paragraph (2) of subsection (a) of this section.

(2) Water mains and sewers. The cost of not exceeding an eight-inch water main, and an eight-inch sanitary sewer main, and not exceeding a 30-inch storm sewer main shall be assessed against the abutting property. Such costs shall be assessed against the lots and parcels of land according to their respective frontages thereon by equal rate per foot of such frontage. If a water main in excess of eight inches, a sanitary sewer main in excess of eight inches in size, or a storm sewer in excess of 30 inches in size is laid, the excess cost shall be borne by the city. If the resolution ordered the construction of any pumping station, outfall, septic tank or disposal plant, no part of the cost of the same shall be specially assessed. Nothing contained herein shall be constructed to limit the power of the council to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract. The entire cost of each water and sewer lateral shall be specially charged against the particular lot or parcel of land for or in connection with which it was constructed, except that assessments shall be calculated as if the lateral were laid from the center of the street. The cost of installing storm sewers may, however, be assessed as part of the cost of roadway paving.

(3) Sidewalks. The total cost of constructing or reconstructing sidewalks shall be assessed against the lots and parcels of land abutting that side of the street upon which the improvement is made according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lot to the curb line of an intersecting street. The total cost of constructing portions of driveways within the street area shall be assessed against the lots for which they are constructed.

(4) Grass plots. The entire cost of grading or otherwise improving or of planting the grass plots in any street or part thereof shall be assessed against the lots and parcels of land abutting the street or part thereof where or whereon the improvements are made by an equal rate per front foot of such frontage; provided, that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or otherwise improved, the cost thereof shall be assessed against all of the property abutting the street within the block where such grass plot is located.

(b) If the petition (or the resolution in those cases where the improvement was ordered made without petition) specified that there should be specially assessed against the abutting property a smaller portion of the cost of any improvement than that set forth in paragraph (2) of subsection (a) of this section, there shall be assessed against the abutting property only a proportion of the cost as was specified in the petition or in such resolution. No restriction

or denial of access to an abutting street shall affect the levy or collection of any assessment for local improvements.

(c) The cost of paving, water, sewer, and sidewalk improvements upon, in, or to any portion of a right-of-way or any property owned by the State of North Carolina, any agency or subdivision thereof, shall be assessed against the right-of-way or property and shall be paid by the State, its agency or subdivision.

"Sec. 19.12. Corner lot exemptions. The council shall have authority to determine the amount and applicability of assessment exemptions for corner lots, and to distinguish between different classifications of property uses. The exemptions for paving sidewalk, and storm sewer improvements shall not exceed 60 feet and shall be limited to residential uses, and the exemptions for water mains and sanitary sewers shall not exceed 150 feet for residential uses and 100 feet for business uses. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

"Sec. 19.13. Preliminary assessment roll. The city council shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot, the name or names of the owner or owners of each lot, as far as the same can be ascertained; provided, that a map of the improvements on which is shown frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the city clerk, and there shall be published in some newspaper, published in the city, which is qualified to carry legal notices, or if there be no such newspaper, the city clerk shall cause to be posted in three public places in the city, a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, the amount of each assessment, and stating the time fixed for the meeting of the city council for the hearing of objections to the special assessments, such meeting to be not earlier than 10 days after the first publication, or from the date of posting of such notice. Any number of assessment rolls may be included in one notice. In any case where the preliminary notice was served or mailed, instead of being published, this notice need not be published or posted, but may be served or mailed. The serving or mailing of notices shall be completed not less than five days prior to the date fixed for the hearing of the assessment roll, and the return of the person serving or mailing the same shall, in the absence of fraud, be conclusive that the same was served or mailed.

"Sec. 19.14. Hearing, revision and confirmation of preliminary assessment roll; lien. At the time appointed for that purpose, or at some other time to which it may adjourn, the city council shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then, or thereafter, the council shall either annul or sustain or modify in whole, or in part, the assessment, either by confirming the

preliminary assessment against any or all lots or parcels described thereon, or by cancelling, increasing or reducing the same, according to the special benefits which the council decides each of the lots or parcels has received or will receive on account of the improvements, except that assessments against a railroad or railroads, because of contract or franchise obligations shall be in accordance with such obligations. If any property is omitted from the preliminary roll, the council may place it on the roll and levy proper assessment. The council may thereupon confirm the assessment roll, and the assessment so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations to railroads. Whenever the city council shall confirm assessments for local purposes, the city clerk shall enter on the council minutes and on the assessment roll the date, hour, and minute of confirmation the assessment shall be a lien on the property assessed, of the same nature and to the same extent as county and city taxes, and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy of the same shall be delivered to the city-county tax collector.

"Sec. 19.15. Appeal to superior court. If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, he may, within 10 days after the confirmation of the assessment roll, give written notice to the city council that he takes an appeal to the Superior Court of New Hanover County, in which case he shall, within 20 days after the confirmation of the assessment roll, serve on the mayor or city clerk a statement of facts upon which he bases his appeal. The appeal shall be tried as other actions at law. The remedy herein provided for any person dissatisfied with the amount of the assessment against any property of which he is the owner, or in which he is interested, shall be exclusive.

"Sec. 19.16. Power to correct error in assessment. If it shall appear, after confirmation of any assessment roll, that an error has been made, the city clerk shall cause to be published one time in some newspaper published in the city, or if there be no such newspaper, the city clerk shall cause to be posted at three public places in the city, a notice referring to the assessment roll in which error was made, naming the owner or owners of the lot or parcel of land affected by the error, if the same can be ascertained, and naming the time and place fixed for a hearing by the council for the correction of the error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of the notice. At the time fixed in the notice or at some subsequent time to which the council may adjourn, the council, after giving the owner or owners of the property affected, and other persons interested therein, an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not increase an assessment against any property not owned by the city, or if all of the property owners affected by the correction waive notice in writing.

"Sec. 19.17. Reassessment. The city council shall have the power, when in its judgment there is any irregularity, omission, error or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it, and thereupon make a reassessment. In such case there shall be included, as part of the cost of the improvements involved, all interest paid, or accrued on notes or certificates of indebtedness, or bonds issued by the

city to pay the expenses of such improvement. The proceedings shall, as far as practical, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

"Sec. 19.18. Publication of notice of confirmation of assessment roll. After the expiration of 20 days from the confirmation of assessment roll, the city clerk shall cause to be published one time in some newspaper published in the city, which is qualified to carry legal notices, or, if there be no such newspaper, shall cause to be posted in at least three public places therein a notice that any assessment contained in the assessment roll may be paid at any time before the expiration of 30 days from the date of publication or posting of notice, without interest from the date of confirmation of the assessment roll, but that if such assessment is not paid in full within said time, all installments thereof shall bear interest at the rate to be established by the city council not to exceed the legal rate authorized by the General Statutes of North Carolina, from the date of confirmation of the assessment roll.

"Sec. 19.19. Payment of assessments in cash or by installments. The property owner or railroad company assessed shall have the option of paying for improvements in cash or in not less than two, or more than 10 equal annual installments, as may be determined in the resolution ordering improvements. If paid in installments, installments shall bear interest at the rate to be established by the city council not to exceed the legal rate authorized by the General Statutes of North Carolina, from the date of confirmation of the assessment roll. If any assessment is not paid in cash, the first installment, with interest, shall become due and payable 30 days after the publication or posting of the notice of confirmation, and one subsequent installment and interest shall be due and payable on the same day of the same month in each successive year until the assessment is paid in full; provided, however, that if the city council shall so direct, installments shall become due and payable on the same date when property taxes of the city are due and payable. If any installment with interest is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

"Sec. 19.20. Enforcement of payment of assessments. Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and property and rights-of-way may be sold by the city under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale of land for unpaid taxes. Unpaid assessments, interest, and penalties owned by railroad companies and the State of North Carolina, its agencies or subdivisions, may be collected by writs of mandamus issued by the Superior Court of New Hanover County. Collection of assessments with interest and penalties may also be made by the city of proceedings to foreclose the lien of assessments as a lien for mortgages is, or may be, foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in payment of any installment. The payment of such installment, together with interest and penalties due thereon, before the lot or parcel of land, against which the same is

a lien, is sold, or such lien is foreclosed, shall bar the right of the city to sell the land or to foreclose the lien by reason of default.

"Sec. 19.21. Assessment of cost of water mains and sewer extensions. If the resolution ordering the making of any improvement, or improvements, included a provision for any necessary extension of a water main or sewer or sewers, beyond the limit of a street, or streets, at such time after the completion of such extension, or extensions, as, in the judgment of the city council, circumstances justify the assessment of the cost thereof, the council shall cause a preliminary assessment to be made and the procedure thereafter to be followed with respect to such assessment, and the force and effect thereof shall be as already prescribed for other assessments.

"Sec. 19.22. Apportionment of assessments. In any case where one or more special assessments have been made, and property has been, or is about to be subdivided, and it is desirable that the assessments be apportioned among the subdivisons of such property, the city council may, upon application by the owner or owners, apportion the assessments among the subidvisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

"Sec. 19.23. Effect of change of ownership on proceedings. No change of ownership of any property or interest therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessments made therefor as if there had been no change in ownership.

"Sec. 19.24. Proceedings in rem. All proceedings for special assessments shall be proceedings in rem and no mistake or omission as to the name of any owner or persons interested in the lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

"Sec. 19.25. Council may hold in abeyance certain water and sewer assessments. (a) The city council may provide by resolution that assessments levied against abutting lots or parcels of land for water main improvements, or sanitary sewer improvements, when in its opinion such improvements may not presently be used by the owner or owners of the abutting lots or parcels of land, may be held in abeyance without the payment of any interest thereon until such time as the council shall determine that any such assessment shall be paid in accordance with the terms set out in the confirming resolution. A part of the assessments, levied for the improvements herein set out on a street or streets, or portion thereof, may be held in abeyance as herein provided without holding all of such assessments in abeyance.

(b) All statutes of limitations, and particularly the statute of limitations provided for in Section 160-93 of the General Statutes of the State are hereby suspended during the time that any assessment is held in abeyance without the payment of interest as provided in subsection (a) of this section. Such time shall not be a part of the time limited for the commencement of action for the enforcement of the payment of any such assessment, and such action may be brought at any time within 10 years from the date of the adoption of a resolution by the council, determining that such assessment shall be paid in accordance with the original resolution confirming it.

(c) Nothing herein shall be construed to revive any right of action heretofore been barred by the statute of limitations.

"Sec. 19.26. If any lots or parcels of land abutting any local improvements are located outside the city limits, the city council may continue and delay the levy of assessments against such property until the city limits are extended to include such property, or the council may provide that no water or sewer service connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the council may levy assessments for such local improvements against such property, and the procedure therefor shall be the same as provided in this charter. Nothing contained in this section shall be construed to prohibit or restrict the city council and a property owner from entering into an agreement for payments in lieu of assessments.

"Sec. 19.27. Procedure for street improvement and assessment of property abutting but located outside the city limits. In cases where the city limit line of the City of Wilmington runs along a street or road so that property on one side of the street or road lies within the corporate limits of the city, and the property on the other side of the street or road lies outside of such corporate limits, and a majority of all such property owners, owning a majority of the property abutting such street or road present a petition meeting the requirements of Article 10, Chapter 160A, of the General Statutes of North Carolina, requesting the improvement of such street or road, the city council may approve such petition, make the improvements requested, and assess the costs thereof against the property abutting both sides of such street or road in like manner, and to the same extent that it would be authorized to do if such street or road, and the property abutting thereon lay wholly within the corporate limits of the city.

"Sec. 19.28. Intervals of at least 10 years for permanent street improvements of particular property. Where permanent street improvements are made, the property bearing such assessments shall not be assessed for permanent street improvement again until after the expiration of 10 years from the date of the last preceding assessment.

"Sec. 19.29. Special procedure with regard to sidewalk and driveway repairs. (1) It shall be the duty of every property owner in the City of Wilmington to maintain the sidewalks and driveways abutting his property in good repair and in safe condition.

(2) The entire cost of the repair or reconstruction of sidewalks and driveways shall be paid by the abutting property owner.

(3) When a sidewalk or driveway is found to be in poor repair and of unsafe condition, the city manager, through the city engineer, shall notify the abutting owner thereof, and in such notice direct the owner to make the repair specified in the notice within 30 days after such notice has been personally served upon or sent by registered mail to such owner at his last known address, or published once in a newspaper of general circulation in the City of Wilmington if the owner's address is unknown. The owner, upon the receipt of such notice, may appeal to the city council from the direction of the city manager, or his agent; provided, that such appeal is taken within the 30-day period during which the repair is required to be made; and in event of appeal, no repair of the property shall be required until the city council has heard and acted upon the appeal. If the property owner shall fail to appeal to the city council or fail to make the

required improvement within the time set out in the notice, the city manager shall report such fact to the city council, and the city council may, by resolution, require the repair to be made and the cost thereof assessed against the abutting property, and such assessment shall constitute a lien upon the property superior to all other liens. Appeals to the superior court may be taken by any interested property owner within 30 days after the adoption of the resolution, but if no appeal is taken, the action of the city council shall be conclusive of the necessity of such repair.

If the cost of the improvement shall exceed one hundred dollars ($100.00), assessment against abutting property shall be made and collected in the same manner that assessment would be made for local improvements as provided by Article 9, Chapter 160, of the General Statutes of North Carolina. If the cost of the repair shall be less than one hundred dollars ($100.00), the assessment against abutting property shall be collected as taxes are collected and such assessments shall bear interest at the rate of six percent (6%) per annum from the date of the assessment until paid.

"Sec. 19.30. Grass plot and driveway maintenance. It shall be the responsibility of the abutting property owner to maintain any grass plot or diveway between the property line and the curb of a paved street.

"ARTICLE XX.

"Franchises.

"Sec. 20.1. Franchises for use of streets; limitation of period for which granted. No franchise for the use of streets, sidewalks, highways or other public property of the city shall be hereafter granted, extended or renewed for a longer period than 30 years.

"Sec. 20.2. Publication and reading of ordinance. No ordinance granting any franchise for the use of the streets, sidewalks, highways or other public property of the city shall be passed until the full text thereof shall have been published once in a newspaper published in the city, which is qualified to carry legal notices, at the expense of the applicant applying for such franchise, before the second reading of such ordinance. All such ordinances shall be read at three separate regular meetings of the city council and an 'aye' and 'nay' vote shall be taken and recorded on the second and third meetings. The rules shall not be suspended so as to pass any such ordinance in a shorter time.

"Sec. 20.3. Ordinance to provide reasonable time for completion of work. No ordinance granting any franchise for the use of the streets, sidewalks, highways or other public property of the city shall be passed unless some reasonable time limit shall be provided therein for the commencement and completion of the work authorized.

"Sec. 20.4. Terms and conditions of grant. The city council shall have the right to fix such terms and conditions upon which a franchise for the use of the streets, sidewalks, highways or other public property of the city shall be granted.

"Sec. 20.5. Franchise for construction of railroad on street conditioned on street maintenance. No franchise to construct and operate any railway upon any street in the city shall be granted except on the condition that the company owning and operating such railway shall keep up and maintain the street between and at least 18 inches on each side of every line of such railway and all space between tracks where such railway is double tracked.

"Sec. 20.6. Renewal of grants for construction or operation of utilities. The city council may, by ordinance and in the manner hereinbefore specified for granting franchises, renew any grant for the construction or operation of any utility not earlier than two years prior to its expiration, upon such terms as may be conducive to the public interest.

Sec. 20.7. How franchises for occupation of streets construed. All franchises or privileges for the occupation of the streets shall be strictly construed in favor of the city and no franchise or privilege shall be held to have been granted unless granted in clear and unmistakable terms.

"Sec. 20.8. Grant or renewal of franchise, subject to certain rights of city. The grant of every franchise or privilege as well as the renewal of every franchise or privilege shall be subject to the right of the city, whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, including among other things the right to enact and enforce ordinances to acquire proper and adequate extensions of service and to protect the public from danger and inconvenience in the operation of any work or business authorized by the grant of the franchise, and the right to make and enforce all such regulations as shall be necessary to secure adequate, sufficient and proper service and accommodations for the people, and to insure their comfort and convenience without discrimination.

"Sec. 20.9. Revocable permits for laying spur tracks. Revocable permits for laying spur tracks across or along streets and public places to connect any steam, electric or other railroad with any warehouse, factory or other establishment needing switching facilities shall not be considered to be franchises, as that term is used in this charter, but such permits may be granted and revoked by the city council from time to time, in accordance with such terms and conditions as may be prescribed by general ordinance.

"Sec. 20.10. Grant for extension of public utilities. The city council may by ordinance grant to any individual, company or corporation operating a public utility or quasi-public utility the right to extend the appliances and service of such utility. All such extensions shall become a part of the aggregate property of the utility and shall be subject to all the obligations and reserved rights in favor of the city applicable to the property of the utility by virtue of the ordinance providing for its construction and operation. The right to use and maintain any such extension shall expire with the original grant of the utility to which the extension was made, or any renewal thereof.

"Sec. 20.11. Prohibition of exclusive or perpetual grants. No right to construct, maintain or operate any public utility in the City of Wilmington shall be exclusive or perpetual.

"ARTICLE XXI.

"Parks, Public Buildings and Other Public Property.

"Sec. 21.1. Vesting of title. Except as otherwise provided in this charter, the title to all parks, public buildings and other public property belonging to the city shall vest in the city.

"Sec. 21.2. Control and custody. All parks, public buildings and other public property belonging to the city shall be under the control and in the custody of the city council.

"Sec. 21.3. Use and regulation. The city council shall have power to pass proper ordinances for the regulation and management of all parks within the corporate limits of the city and the use of such parks by the public.

"Sec. 21.4. Officers responsible. Such officials, servants and agents as shall be needed to care for, manage and look after the parks, public buildings and other public property belonging to the city shall be appointed and their terms of office and compensation fixed as elsewhere provided in this charter.

"Sec. 21.5. Control of trees on public property. The city council shall have exclusive control of all trees upon the streets or public property of the city.

"ARTICLE XXII.

"Community Planning and Development Commission.

"Sec. 22.1. Authority to create commission. For the purpose of promoting the orderly growth, expansion and development of the City of Wilmington and its environs and for the purpose of promoting the health, safety, morals and general welfare of the citizens of Wilmington and its environs, the city council is hereby authorized to establish a community planning and development commission, as provided for in G.S. 160A-360 through G.S. 160A-366.

"Sec. 22.2. Joint planning board. In lieu of a community planning and development commission the governing body of the City of Wilmington may enter into agreements with the governing body of any other city, town or county for the establishment of a joint planning board.

The joint planning board shall be established in accordance with General Statutes of North Carolina, Chapter 160A, Article 20, Part 1.

An ordinance and resolution passed by the governing bodies which are to be members of a joint planning board shall establish: The name of the joint planning board; duties; qualification for membership; term of office; organization; officers; rules; meeting times; and other details necessary to fulfill its duties.

"Sec. 22.3. Meetings to be public. Any and all meetings of the planning and development commission or any joint planning board established pursuant to the authority granted herein shall be open to the general public and no executive or secret sessions shall be permitted at any time.

"ARTICLE XXIII.

"Planning authority and building regulations.

"Sec. 23.1. Planning authority within the corporate limits any planning, zoning, subdivision, building, or other regulatory powers which may now or hereafter be conferred by law upon municipalities and their governing bodies or specifically conferred by law upon the City of Wilmington by special act or amendment to this charter.

"Sec. 23.2. Extraterritorial planning authority. The City Council of the City of Wilmington is hereby authorized to exercise any planning, zoning, subdivision, building, or other regulatory power which may now or hereafter be conferred upon the City of Wilmington and vested in the city council by this charter, the General Statutes of North Carolina, or any other law applicable to the City of Wilmington not only within the corporate limits of the city but also within the territory beyond the corporate limits as now or hereafter fixed in accordance with the General Statutes. Such powers may be exercised to the same extent and according to the same procedures as are applicable to the exercise of planning, zoning, subdivision, or building regulation powers within the corporate limits of the city.

"Sec. 23.3. Enlarged board of adjustment. At the time the City Council of the City of Wilmington adopts a zoning ordinance regulating the area outside of and beyond the corporate limits of the city, an enlarged board of adjustment shall by ordinance be created by the city council. The enlarged board of adjustment shall consist of six members, three of whom shall be residents of the area outside the corporate limits and the city's extraterritorial jurisdiction. At the time of their appointment, members of the enlarged board of adjustment shall hold no other elected or appointed office with the city or county government.

The three members representing the City of Wilmington shall be appointed by the city council for three-year terms. Provided, that of the members first appointed two members shall be appointed to serve terms of three years and one member a term of two years. The three members representing the area outside the city and within the city's extraterritorial jurisdiction shall be appointed by the Board of Commissioners of New Hanover County for three-year terms, provided that of the members first appointed two members shall be appointed to serve terms of two years and one member a term of three years. Thereafter, all members of the commission shall be appointed to serve three-year terms. The terms of the members first appointed shall begin at the time of the first meeting of the board of adjustment after their appointment. A vacancy occurring in the membership of the board of adjustment shall be filled for the unexpired term in the same manner as set forth herein for other appointments. All members of the board of adjustment shall have equal rights, privileges, and duties. The concurring vote of five members of such enlarged board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of ordinances or regulations within the area wherein the enlarged board of adjustment has jurisdiction.

In the event the County Board of Commissioners of New Hanover County fails or refuses to make appointments to the enlarged board of adjustment as required by this section, the City Council of the City of Wilmington is hereby authorized to appoint those members to such board which the county board of commissioners failed or refused to appoint and such members so appointed shall have all the privileges, rights, and duties as other members of the board.

"Sec. 23.4. Extraterritorial building regulation authority. In addition to all other power and authority granted to the City Council of the City of Wilmington elsewhere in this charter, the city council is hereby authorized to adopt and enforce outside the corporate limits and within the extraterritorial jurisdiction of the city such building, plumbing, heating, or electrical regulations as the council is now or may hereafter be authorized to adopt within the city. In exercising this authority and in order to enforce the provisions of any building or other regulation herein authorized, the city may by ordinance require that prior to the beginning of any construction, reconstruction, or alteration of any building or structure, or for plumbing, heating, or electrical installations that a permit or permits shall be obtained therefor from the building inspector or administrative official of the City of Wilmington.

"Sec. 23.5. Extraterritorial enforcement authority. The City Council of the City of Wilmington is hereby authorized and empowered to enforce any regulations adopted by ordinance pursuant to the authority granted by this act within the area outside the corporate limits as may now or hereafter be fixed in accordance with the General Statutes in the same manner as the city may now

or hereafter be authorized to enforce such ordinance or regulation within the corporate limits of the city. This authority shall include the authority to require permit prior to the construction, reconstruction or alteration of any building or structure and to fix a schedule of fees therefor. The building inspector is the administrative officer designated by the city council to enforce any ordinance or regulation outside the corporate limits. He shall have the same power and authority in the performance of this duty outside the city that he may now or hereafter be vested with in the performance of this same duty within the corporate limits of the city.

"ARTICLE XXIV.

"Construction Requirements.

"Sec. 24.1. Inspection of buildings in course of erection or alteration. Subject to the provisions of this charter, provision shall be made for the inspection, by the city manager or his deputies, of all buildings which may be in course of erection or alteration, according to the building ordinances of the city.

"Sec. 24.2. Reports of condition of buildings in course of erection or alteration. Reports of the condition of buildings in the course of construction or alteration shall be made and kept by the city manager.

"Sec. 24.3. Supervision and inspection of electrical work and appliances. All electrical works and applicances used and intended for the use of manufacturing, supplying or receiving electricity within the city either for light, heat, power, telephone, telegraph or signaling systems shall be supervised and inspected.

"Sec. 24.4. Inspection of plumbing work, water fixtures and sewer connection. All plumbing work, water fixtures and sewer connections shall also be inspected and required to conform to the city ordinances.

"Sec. 24.5. Authority of city council to adopt technical codes by reference. The city council be and it is hereby authorized to adopt building codes, gas codes, heating codes, electrical codes and fire prevention codes by reference rather than by printing the entire code into the ordinance adopting the code.

"ARTICLE XXV.

"Police.

"Sec. 25.1. Appointment of officials for exercise of police power. The police powers of the city shall be exercised by such officials as may be appointed in accordance with this charter.

"Sec. 25.2. Execution of process by persons exercising police power. Persons exercising police power shall execute all processes directed to them by the mayor or the recorder or other lawful officer and shall have the same power in regard thereto as sheriffs.

"Sec. 25.3. Service of civil process by policemen. Policemen may serve all civil process or notice that may be directed to them by any court, and any notice directed to them by the mayor, under the same regulations and penalties as are or may be prescribed by law in the case of sheriffs.

"Sec. 25.4. Persons exercising police power to have power and authority of sheriffs. Persons exercising the police powers shall have all the power and authority now or which may hereafter be vested in sheriffs for the preservation of the peace of the city by suppressing disturbances and arresting offenders.

"Sec. 25.5. Oath of members of force. The members of the police force shall take oath before some person authorized to administer oaths for the faithful performance of their duties imposed by law and the ordinances of the city.

"Sec. 25.6. Bonds of officers and members of force. Such officers and members of the police force as the city manager may designate shall give bond for the faithful accounting of all moneys that may come into their hands by virtue of their office.

"ARTICLE XXVI.

"Fire Protection.

"Sec. 26.1. Council to provide for protection against fire. Authority is hereby conferred, subject to the provisions of this charter, upon the city council, to make provisions for the protection of the lives and property of the people against loss or damage by fire.

"Sec. 26.2. Destruction of houses to prevent spread of fire. In case of fire the city manager, or the person exercising the duties of chief of the fire department may order the blowing up, pulling down, or the destruction of any house in his judgment necessary for the prevention of the spread of fire and no person shall be held civilly or criminally liable for giving or obeying such order.

"Sec. 26.3. Power of firemen to arrest during fires. Persons exercising the duties of firemen shall have power and are hereby authorized to make arrests during fires for interference with or obstruction of their operations.

"Sec. 26.4. Interference with firemen. Any interference with the operations of the firemen in the discharge of their duty or any of the apparatus of the fire department shall be unlawful.

"ARTICLE XXVII.

"Traffic Control.

"Sec. 27.1. Location of traffic control devices. The city council may authorize an official to designate the location of official traffic control devices, upon a determination by him:

(a) If such a device is to be installed at a particular location, that its installation is necessary in order to control traffic congestion in the interest of public safety; or

(b) If such a device is to be moved or removed from a particular location, that the device is no longer required at such location for control of traffic congestion in the interest of public safety.

An 'official traffic control device', as used in this section, is a sign, signal, marking, or device, including a parking meter, which is intended to regulate vehicular or pedestrian traffic.

"ARTICLE XXVIII.

"Refuse, Weeds, and Trash.

"Sec. 28.1. Property kept free of offensive matter. It shall be the duty of every property owner in the city to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

"Sec. 28.2. Removal of offensive matter; charges a lien. The city council may by ordinance establish a procedure whereby city forces may clean, cut, and remove any weeds, trash, refuse, or other offensive matter from any property upon failure of the owner or occupant after 10 days' notice to do so. In such event, the cost of such cleaning, cutting, and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the city or by foreclosure of the lein in the same manner and subject to the same rules, regulations, costs,

and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

"ARTICLE XXIX.

"Claims Against the City.

"Sec. 29.1. Notice prerequisite to action for personal injury. No action for damages against the City of Wilmington for personal injury shall be instituted against the city unless within six months after the happening or infliction of the injury complained of, the complainant, his executors or administrators, shall have given notice to the city council of such injury, in writing, stating in such notice the date and place of happening or infliction of such injury, the manner of such infliction, the general nature of the injury, and the amount of damages claimed therefor; but this shall not prevent any time of limitation prescribed by law for commencing to run at the date of the happening or infliction of such injury, or in any manner interfere with its running.

"Sec. 29.2. Notice prerequisite to action for property damage. No action for damages against the city for any character whatever to property shall be instituted against the city unless within six months after the happening or infliction of the injury complained of, the complainant, his executors or administrators, shall have given notice to the city council of such injury, in writing, stating in such notice to the city council of such injury, in writing, stating in such notice the date and place of happening or infliction of such injury and the manner of such infliction, the character of the injury, and the amount of damages claimed therefor; but this shall not prevent any time of limitation prescribed by law from commencing to run at the date of happening or infliction of such injury or in any manner interfere with its running.

"Sec. 29.3. Settlement of claims by city manager. The city manager may settle claims against the city for (1) personal injury or damages to property when the amount involved does not exceed the sum of one hundred dollars ($100.00), and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred, and (2) the taking of small portions of private property which are needed for the rounding of corners at street intersections, when the amount involved in any such settlement does not exceed five hundred dollars ($500.00), and does not exceed the actual loss sustained. Settlement of a claim by the city manager pursuant to this section shall constitute a complete release of the city from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be approved by the city attorney."

Sec. 2. Purpose of this act. The purpose of this act is to revise and reorganize the Charter of the City of Wilmington and to consolidate into it certain local acts concerning the property, affairs and government of the city. Unless expressly indicated to the contrary in the following section of this act, it is not the intention to repeal but rather to reenact with or without amendments and additions, as the case may be, and to continue in force without interruption the provisions of such charter so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. Effect of this act — on other acts. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, or amendments thereto, whether or not such acts or amendments are not expressly

set forth herein, except insofar as the same may be in conflict with the provisions of this act:

(1) Session Laws 1959, Chapter 89
(2) Session Laws 1959, Chapter 427
(3) Session Laws 1959, Chapter 648
(4) Session Laws 1959, Chapter 1044
(5) Session Laws 1959, Chapter 1047
(6) Session Laws 1959, Chapter 1048
(7) Session Laws 1957, Chapter 29
(8) Session Laws 1957, Chapter 460
(9) Session Laws 1957, Chapter 470
(10) Session Laws 1957, Chapter 602
(11) Session Laws 1957, Chapter 615
(12) Session Laws 1957, Chapter 1098
(13) Session Laws 1955, Chapter 426
(14) Session Laws 1955, Chapter 1009
(15) Session Laws 1955, Chapter 1356
(16) Session Laws 1953, Chapter 69
(17) Session Laws 1953, Chapter 321
(18) Session Laws 1953, Chapter 553
(19) Session Laws 1953, Chapter 554
(20) Session Laws 1953, Chapter 581
(21) Session Laws 1953, Chapter 614
(22) Session Laws 1953, Chapter 676
(23) Session Laws 1951, Chapter 474
(24) Session Laws 1951, Chapter 880
(25) Session Laws 1951, Chapter 881
(26) Session Laws 1951, Chapter 906
(27) Session Laws 1951, Chapter 918
(28) Session Laws 1951, Chapter 973
(29) Session Laws 1951, Chapter 1124
(30) Session Laws 1951, Chapter 1175
(31) Session Laws 1951, Chapter 1225
(32) Session Laws 1949, Chapter 395
(33) Session Laws 1949, Chapter 684
(34) Session Laws 1949, Chapter 687
(35) Session Laws 1949, Chapter 780
(36) Session Laws 1949, Chapter 1254
(37) Session Laws 1947, Chapter 479
(38) Session Laws 1947, Chapter 691
(39) Session Laws 1947, Chapter 768
(40) Session Laws 1947, Chapter 883
(41) Session Laws 1945, Chapter 188
(42) Session Laws 1945, Chapter 374
(43) Session Laws 1945, Chapter 453
(44) Session Laws 1945, Chapter 456
(45) Session Laws 1945, Chapter 587
(46) Session Laws 1945, Chapter 602
(47) Session Laws 1945, Chapter 684
(48) Session Laws 1945, Chapter 841

(49) Session Laws 1945, Chapter 858
(50) Session Laws 1945, Chapter 921
(51) Session Laws 1943, Chapter 258
(52) Session Laws 1943, Chapter 544
(53) Session Laws 1943, Chapter 563
(54) Session Laws 1943, Chapter 618
(55) Session Laws 1943, Chapter 685
(56) Session Laws 1943, Chapter 708
(57) Public-Local Laws 1941, Chapter 476
(58) Public-Local Laws 1941, Chapter 223
(59) Public-Local Laws 1941, Chapter 364
(60) Private Laws 1941, Chapter 17
(61) Public-Local Laws 1941, Chapter 50
(62) Public-Local Laws 1941, Chapter 179
(63) Public-Local Laws 1941, Chapter 96
(64) Public-Local Laws 1941, Chapter 272
(65) Public-Local Laws 1941, Chapter 1
(66) Private Laws 1941, Chapter 10
(67) Public-Local Laws 1941, Chapter 441
(68) Public-Local Laws 1939, Chapter 224
(69) Public-Local Laws 1939, Chapter 268
(70) Public-Local Laws 1939, Chapter 324
(71) Public-Local Laws 1939, Chapter 470
(72) Public-Local Laws 1939, Chapter 513
(73) Public-Local Laws 1939, Chapter 520
(74) Public-Local Laws 1939, Chapter 521
(75) Public-Local Laws 1939, Chapter 616
(76) Public-Local Laws 1937, Chapter 8
(77) Public-Local Laws 1937, Chapter 70
(78) Public-Local Laws 1937, Chapter 447
(79) Public-Local Laws 1937, Chapter 471
(80) Public-Local Laws 1937, Chapter 483
(81) Private Laws 1937, Chapter 26
(82) Private Laws 1937, Chapter 31
(83) Public-Local Laws 1935, Chapter 316
(84) Public-Local Laws 1935, Chapter 310
(85) Public-Local Laws 1935, Chapter 170
(86) Public-Local Laws 1935, Chapter 73
(87) Public-Local Laws 1935, Chapter 510
(88) Public-Local Laws 1935, Chapter 352
(89) Public-Local Laws 1935, Chapter 42
(90) Public-Local Laws 1935, Chapter 503
(91) Public-Local Laws 1935, Chapter 407
(92) Public-Local Laws 1935, Chapter 389
(93) Public-Local Laws 1935, Chapter 390
(94) Private Laws 1935, Chapter 209
(95) Private Laws 1935, Chapter 97
(96) Private Laws 1935, Chapter 179
(97) Private Laws 1935, Chapter 246
(98) Private Laws 1935, Chapter 15

(99) Private Laws 1935, Chapter 42
(100) Public-Local Laws 1933, Chapter 191
(101) Public-Local Laws 1933, Chapter 94
(102) Private Laws 1933, Chapter 193
(103) Private Laws 1933, Chapter 167
(104) Private Laws 1931, Chapter 136
(105) Private Laws 1931, Chapter 180
(106) Private Laws 1931, Chapter 176
(107) Private Laws 1931, Chapter 17
(108) Private Laws 1931, Chapter 179
(109) Public-Local Laws 1929, Chapter 353
(110) Private Laws 1929, Chapter 136
(111) Private Laws 1927, Chapter 110
(112) Public-Local Laws 1925, Chapter 302
(113) Private Laws 1925, Chapter 118
(114) Private Laws 1925, Chapter 119
(115) Private Laws 1925, Chapter 176
(116) Private Laws 1925, Chapter 168
(117) Private Laws 1925, Chapter 9
(118) Public-Local Laws 1924, Chapter 135
(119) Public-Local Laws 1924, Chapter 190
(120) Private Laws 1924, Chapter 45
(121) Public-Local Laws 1923, Chapter 85
(122) Public-Local Laws 1923, Chapter 252
(123) Private Laws 1923, Chapter 224
(124) Private Laws 1923, Chapter 137
(125) Private Laws 1923, Chapter 189
(126) Private Laws 1923, Chapter 226
(127) Private Laws 1923, Chapter 214
(128) Private Laws 1923, Chapter 192
(129) Private Laws 1923, Chapter 118
(130) Private Laws 1923, Chapter 228
(131) Private Laws, Extra Session 1921, Chapter 4
(132) Private Laws, Extra Session 1921, Chapter 5
(133) Private Laws, Extra Session 1921, Chapter 73
(134) Private Laws, Extra Session 1921, Chapter 69
(135) Private Laws, Extra Session 1921, Chapter 148
(136) Private Laws 1921, Chapter 5
(137) Private Laws 1921, Chapter 2
(138) Private Laws 1921, Chapter 215
(139) Private Laws 1921, Chapter 157
(140) Private Laws 1921, Chapter 57
(141) Private Laws 1921, Chapter 209
(142) Private Laws 1921, Chapter 153
(143) Private Laws 1919, Chapter 141
(144) Private Laws 1919, Chapter 152
(145) Private Laws 1919, Chapter 154
(146) Private Laws 1919, Chapter 162
(147) Private Laws 1919, Chapter 157
(148) Private Laws 1919, Chapter 159

(149) Private Laws 1919, Chapter 164
(150) Private Laws 1919, Chapter 1
(151) Private Laws 1919, Chapter 149
(152) Private Laws 1915, Chapter 148
(153) Private Laws 1915, Chapter 27
(154) Public-Local Laws 1913, Chapter 316
(154a) Private Laws, Extra Session 1913, Chapter 236
(155) Private Laws 1913, Chapter 473
(156) Private Laws 1913, Chapter 381
(157) Private Laws 1913, Chapter 355
(158) Private Laws 1911, Chapter 191
(159) Private Laws 1911, Chapter 461
(160) Private Laws 1911, Chapter 169
(161) Private Laws 1911, Chapter 184
(162) Private Laws 1911, Chapter 75
(163) Private Laws 1911, Chapter 257

Sec. 4. Effects of this act — generally. (a) All existing city ordinances and resolutions, and all existing rules and regulations of city departments or agencies, not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

(b) All contracts, orders, leases, bonds, and other obligations or instruments entered into by the city or for its benefits prior to the effective date of this act shall continue in full force and effect. Public improvements initiated prior to such date may be carried to completion in accordance with existing laws or with the provisions of this act.

(c) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against or before the city or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

(d) Nothing in this act, except as otherwise specifically provided, shall impair the rights of those who are city officers or employees upon its effective date. All persons then holding city offices or positions shall continue therein and in the performance of their duties until provision shall have been made for the performance of such duties or the discontinuance of their offices or positions.

(e) Any office, position, department, or agency provided for in this act with a name or with powers and duties the same or substantially the same as those heretofore existing shall be deemed to be a continuation thereof. Any provisions of any law, ordinance, resolution, regulation, rule, contract, grant, or other document relating to such a formerly existing office, position, department, or agency provided for in this act with a name or with powers and duties the same or substantially the same as those heretofore existing, so far as not inconsistent with this act, shall apply to those provided for in this act.

(f) All extensions and purported extensions of the corporate limits of the City of Wilmington are hereby declared to be valid.

(g) All proceedings of the City Council of the City of Wilmington relating to local improvements, all work carried out according to such proceedings, and all assessments based thereon, are hereby declared to be valid.

Sec. 5. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not

affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 6. Chapter 1046, Session Laws of 1963, is hereby repealed.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 786 CHAPTER 496

AN ACT TO DELETE ALLEGHANY COUNTY FROM THE "NO CLOSED SEASON" PROVISIONS OF G.S. 113-111.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-111 is hereby amended by deleting from the second line thereof the word "Alleghany" and by deleting from the fifth line thereof the word "Watauga,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 920 CHAPTER 497

AN ACT TO REPEAL G.S. 143B-151 AND G.S. 143B-152 SO AS TO ABOLISH THE EUGENICS COMMISSION.

Whereas, by Chapter 1281, 1973 Session Laws (1974 Session) the procedures for sterilization of persons who are mentally ill or mentally retarded (when appropriate) were placed in the judicial system; and

Whereas, there is no longer a need nor an appropriate function for the Eugenics Commission; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-151 and G.S. 143B-152 as they appear in Volume 3C of the General Statutes are repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 1065 CHAPTER 498

AN ACT TO AMEND G.S. 75-27 SO THAT A PERSON WHO RECEIVES UNSOLICITED GOODS MAY TREAT THEM AS A GIFT AND IS UNDER NO OBLIGATION TO PAY FOR THE UNSOLICITED GOODS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-27 is amended by deleting from the caption the words "through the mail" and from the second line thereof the words "by mail or common carrier".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 1089 **CHAPTER 499**

AN ACT TO AMEND G.S. 113-100 TO PROVIDE THAT BUFFALO BE EXEMPTED FROM "NO OPEN SEASON" STATUS FOR GAME HUNTING PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-100 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is hereby amended by deleting the word and punctuation "buffalo," from the thirteenth line of the table contained therein.

Sec. 2. The purpose of this act is to exempt buffalo from the prohibited open season category under G.S. 113-100.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 1196 **CHAPTER 500**

AN ACT TO AMEND CHAPTER 167 OF THE 1977 SESSION LAWS TO PREVENT THE USE OF ARTIFICIAL LIGHTS IN AREAS INHABITED BY GAME IN ROWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 167 of the 1977 Session Laws is hereby amended by inserting, in proper alphabetical order, "Rowan" in the list of counties appearing therein in which the use of artificial lights is prohibited in areas inhabited by game.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

S. B. 40 **CHAPTER 501**

AN ACT TO AMEND THE CIVIL DIVORCE, CUSTODY AND SUPPORT LAWS TO PROVIDE EQUALITY OF RIGHTS UNDER THE LAW TO MEN AND WOMEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-5(6), as it appears in the 1976 Replacement of Volume 2A, is amended by deleting all of paragraph 4 and substituting therefor a new paragraph 4 to read as follows:

"In all decrees granted under this subdivision in actions in which the insane defendant has insufficient income and property to provide for his or her own care and maintenance, the court shall require the plaintiff to provide for the care and maintenance of the insane defendant for the defendant's lifetime, based upon the standards set out in G.S. 50-16.5(a). The trial court will retain jurisdiction of the parties and the cause, from term to term, for the purpose of making such orders as equity may require to enforce the provisions of the decree requiring plaintiff to furnish the necessary funds for such care and maintenance."

Sec. 2. G.S. 50-13.2(a), as it appears in the 1976 Replacement of Volume 2A, is amended by adding new language at the end of the subsection to read as follows:

"Provided, between the mother and father, whether natural or adoptive, there is no presumption as to who will better promote the interest and welfare of the child."

Sec. 3. This act shall not affect pending litigation.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

S. B. 153 CHAPTER 502

AN ACT TO REWRITE CHAPTER 36 OF THE GENERAL STATUTES RELATING TO TRUSTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 36 of the General Statutes is hereby repealed.

Sec. 2. A new Chapter 36A is hereby added to the General Statutes to read as follows:

"CHAPTER 36A.

"Trusts and Trustees.

"ARTICLE 1.

"Investment and Deposit of Trust Funds.

"§ 36A-1. *Definition.*—(a) For the purpose of this Article, the word 'fiduciary' shall be construed to include a guardian, personal representative, collector, trustee, or any other person charged with the duty of acting for the benefit of another party as to matters coming within the scope of the relationship between them.

(b) As used in subsection (a) above, the word 'person' shall be construed to include an individual, a corporation, or any legal or commercial entity authorized to hold property or do business in the State of North Carolina.

"§ 36A-2. *Investment: prudent man rule.*—(a) In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of another, a fiduciary shall observe the standard of judgment and care under the circumstances then prevailing, which an ordinarily prudent man of discretion and intelligence, who is a fiduciary of the property of others, would observe as such fiduciary; and if the fiduciary has special skills or is named a fiduciary on the basis of representations of special skills or expertise, he is under a duty to use those skills.

(b) Within the limitations of the foregoing standard, a fiduciary is authorized to acquire and retain every kind of property and every kind of investment, including specifically, but without in any way limiting the generality of the foregoing, bonds, debentures, and other corporate or governmental obligations; stocks, preferred or common; real estate mortgages; shares in building and loan associations or savings and loan associations; annual premium or single premium life, endowment, or annuity contracts; and securities of any management type investment company or investment trust registered under the Federal Investment Company Act of 1940, as from time to time amended.

"§ 36A-3. *Terms of creating instrument.*—(a) Nothing contained in this Article shall be construed as authorizing any departure from the express terms or limitations set forth in any will, agreement, court order, or other instrument creating or defining the fiduciary's powers and duties.

(b) A fiduciary holding funds for investment who is specifically directed or authorized by an instrument creating the fiduciary relationship to retain the stock of a bank or trust company that is a member of a bank holding company currently fully registered under an act of Congress entitled Bank Holding Company Act of 1956, as the same may be amended from time to time, shall be considered as being directed or authorized to retain the stock of such bank holding company.

"§ 36A-4. *Power of court not restricted.*—Nothing contained in this Article shall be construed as restricting the power of a court of proper jurisdiction to permit a fiduciary to deviate from the terms of any will, agreement, or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, or management of fiduciary property.

"§ 36A-5. *Applicability of provisions.*—This Article shall govern fiduciaries acting under wills, agreements, court orders, and other instruments now existing or hereafter made.

"§ 36A-6. *Employee trusts.*—Pension, profit sharing, stock bonus, annuity, or other employee trusts established for the purpose of distributing the income and principal thereof to some or all of their employees, or the beneficiaries of such employees, shall not be invalid as violating any laws or rules against perpetuities, restraints on the power of alienation of title to property, or the accumulation of income; but such trusts may continue for such period of time as may be required by the provisions thereof to accomplish the purpose for which they were established.

"§ 36A-7. *Applicability.*—The provisions of this Article shall apply to fiduciary relationships in existence on the effective date of this Chapter or thereafter established.

"ARTICLE 2.

"Removal of Fiduciary Funds.

"§ 36A-10. *Removal of fiduciary funds from this State.*—Unless the creating instrument contains an express prohibition or provides a method of removal, when any personal property in this State is vested in a resident trustee, guardian, or other fiduciary, the clerk of superior court of the county in which the fiduciary resides may, on petition filed for that purpose by the fiduciary, beneficiary, ward, or other interested person, order the said fiduciary or his personal representative to pay, transfer, and deliver the said property or any part of it, to a nonresident fiduciary appointed by a court of record in another state; provided the clerk of superior court finds that such removal is in accord with the express or implied intention of the settlor, would aid the efficient administration of the trust, or is otherwise in the best interests of the beneficiaries, and further provided that,

(a) no such order of any clerk of superior court shall be valid and in force until approved by the resident judge of said judicial district, or the judge holding court in such district; and

(b) no such order shall be made, in the case of a petition, until after a hearing, as to which notice of the application shall have been given to all persons interested in such property as required in other special proceedings; and

(c) such order may be conditioned on the appointment of a fiduciary in the state to which the property is to be removed and shall be subject to such other terms and conditions as the clerk of superior court deems appropriate for protection of the property and interests of the beneficiaries, provided any

North Carolina beneficiary may require that a bond be posted prior to such removal in an amount sufficient to protect his interest, the premium for which shall be charged against his interest.

"§ 36A-11. *Provision for discharge of resident fiduciary.*—When any trustee, guardian, or other fiduciary in this State, shall pay over, transfer, or deliver any property in his hands or vested in him, under any order or decree made in pursuance of this Article, he shall be discharged from all responsibility therefor.

"§ 36A-12. *Removal of fiduciary funds to this State.*—A clerk of superior court upon petition of a foreign trustee, guardian, or other fiduciary or of any beneficiary, ward, or other interested party may appoint a local fiduciary to receive and administer fiduciary property then being administered in another state. A fiduciary appointed pursuant to this section may be required to give bond conditioned upon the faithful performance of his duties or to meet any other conditions required by a court in the other state before permitting removal of the fiduciary property to this State.

"§ 36A-13. *Applicability.*—The provisions of this Article shall not apply to proceedings begun before the effective date of this Chapter.

"ARTICLE 3.

"Resignation, Removal, and Renunciation of Trustees.

"§ 36A-18. *Applicability of this Article.*—(a) Except when otherwise provided by law, the term 'trustee', as used in this Article, includes 'trustees', 'guardians', and other fiduciaries.

(b) The resignation, removal, and renunciation of personal representatives and collectors shall be governed by the provisions of Articles 5, 9, and 10 of Chapter 28A.

(c) The substitution of trustees in mortgages and deeds of trust shall be governed by the provisions of G.S. 45-10.

"§ 36A-19. *Clerk's power to accept resignations.*—The clerks of superior courts of this State have power and jurisdiction to accept the resignation of trustees and to appoint their successors in the manner provided by this Article.

"§ 36A-20. *Petition; contents and verification.*—When any trustee desires to resign his trust, he shall file his petition in the office of the clerk of superior court of the county in which he qualified or in which the instrument under which he claims is registered. The petition shall set forth all the facts in connection with the appointment and qualification as such trustee, with a copy of the instrument under which he acts; shall state the names, ages, and residences of all the beneficiaries and other parties interested in the trust estate; shall contain a full and complete statement of all debts or liabilities due by the estate, and a full and complete statement of all assets belonging to said estate, and a full and complete statement of all moneys, securities, or assets in the hands of the trustee and due the estate, together with a full statement of the reasons the applicant should be permitted to resign his trust. The petition shall be verified by the oath of the applicant.

"§ 36A-21. *Parties; hearing; successor appointed.*—Upon the filing of the petition, the clerk shall docket the cause as a special proceeding, with the trustee as plaintiff and the beneficiaries as defendants, and shall issue the summons for the defendants, and the procedure shall be the same as in other special proceedings. If any of the defendants be nonresidents, summons may be served by publication; and if any be infants, a guardian ad litem must be appointed by the court to represent their interests in the manner now provided

by law. The beneficiaries, creditors, or any other person interested in the trust estate, have the right to answer the petition and to offer evidence why the prayer of the petition should not be granted. The clerk shall then proceed to hear and determine the matter, and if it appears to the court that the best interests of the creditors and the beneficiaries demand that the resignation of the trustee be accepted, or if it appears to the court that sufficient reasons exist for allowing the resignation, and that the resignation can be allowed without prejudice to the rights of creditors or the beneficiaries, the clerk may, in the exercise of his discretion, allow the applicant to resign; and in such case the clerk shall proceed to appoint the successor of the petitioner in the manner provided in this Article.

"§ 36A-22. *Resignation allowed; costs; judge's approval.*—In making an order allowing the trustee to resign the clerk shall make such order concerning the costs of the proceedings and commissions to the trustee as may be just. If there is no appeal from the decision and order of the clerk within the time prescribed by law, the proceedings shall be submitted to the judge of the superior court and approved by him before the same shall become effective.

"§ 36A-23. *Appeal; stay effected by appeal.*—Any party in interest may appeal from the decision of the clerk to the judge at chambers, and in such event the procedure shall be the same as in other special proceedings as now provided by law. If the clerk allows the resignation, and an appeal is taken from his decision, such appeal shall have the effect to stay the judgment and order of the clerk until the cause is heard and determined by the judge upon the appeal taken.

"§ 36A-24. *On appeal judge determines facts.*—Upon an appeal taken from the clerk to the judge, the judge shall have the power to review the findings of fact made by the clerk and to find the facts or to take other evidence, but the facts found by the judge shall be final and conclusive upon any appeal to the appellate division.

"§ 36A-25. *Final accounting before resignation.*—No trustee shall be allowed or permitted to resign his trust until he shall first file with the court his final account of the trust estate, and until the court shall be satisfied that the said account is true and correct.

"§ 36A-26. *Resignation effective on settlement with successor.*—In case the resignation of the trustee is accepted by the court, the resignation shall not release or discharge the trustee from liability, until he shall have filed an account acceptable to his successor in full for all moneys, securities, property, or other assets or things of value in his possession or under his control or which should be in his possession or under his control belonging to the trust estate, and such account has been approved by the court.

"§ 36A-27. *Court to appoint successor; when bond required.*—If the court shall allow any trustee to resign his trust upon compliance with the provisions of this Article, it shall be the duty of the court to proceed to appoint some fit and suitable person as the successor of such trustee; and the court shall require the person so appointed to give bond with sufficient surety, approved by the court, in sum double the value of the personal property to come into his hands when bond is executed by a personal surety and in an amount not less than one and one-fourth times the value of all personal property of the decedent when the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of Insurance to do business in this State, provided that the clerk of superior court, when the value of the personal

property exceeds one hundred thousand dollars ($100,000), may accept bond in an amount equal to the value of the personal property plus ten percent (10%) thereof, conditioned upon the faithful performance of his duties as such trustee and for the payment to the persons entitled to receive the same of all moneys, assets, or other things of value which may come into his hands; provided, that where by the terms of the creating instrument the trustee who has resigned was not required to give bond and did not give bond and an intent is expressed in the creating instrument that a successor trustee shall serve without bond, or where the clerk, upon due investigation finds that bond is not necessary for the protection of the estate, the clerk, with the approval of the judge, upon the petition of any party in interest, may waive the requirement of a bond for the successor trustee and permit said successor trustee to serve without bond. All bonds executed under the provisions of this Article shall be filed with the clerk.

"§ 36A-28. *Rights and duties devolve on successor.*—Upon the acceptance by the court of the resignation of any trustee, and upon the appointment by the court of his successor in the manner provided by this Article, the successor trustee shall succeed to all the rights, powers, and privileges, and shall be subject to all the duties, liabilities, and responsibilities that were imposed upon the original trustee unless a contrary intent appears from the creating instrument.

"§ 36A-29. *Appointment of successors to deceased or incapacitated trustees.*—Upon the death or incapacity of a trustee, a new trustee may be appointed on application by any beneficiary, or other interested persons, by petition to the clerk of the superior court of the county in which the instrument under which the deceased or incapacitated trustee claimed is registered, making all necessary parties defendants. The clerk shall docket the cause as a special proceeding and issue summons for the defendants, and the procedure shall be the same as in other special proceedings. If any of the defendants be nonresidents, summons may be served by publication; and if any be infants, a guardian ad litem must be appointed. The beneficiaries, creditors, or any other persons interested in the trust estate shall have the right to answer the petition and to offer evidence why the prayer of the petition should not be granted. After hearing the matter, the clerk may appoint the person so named in the petition, or he may appoint some other fit and suitable person or corporation to act as the successor of the deceased or incapacitated trustee; and the clerk shall require the person so appointed to give bond as required in G.S. 36A-27; provided, that where by the terms of the instrument upon which the deceased or incapacitated trustee claimed, said trustee was not required to give bond and did not give bond and an intent is expressed in the creating instrument that a successor trustee shall serve without bond, or where the clerk upon due investigation, finds that bond is not necessary for the protection of the estate, the requirement of a bond for the successor trustee may be waived as provided in G.S. 36A-27. Any party in interest may appeal from the decision of the clerk as provided in G.S. 36A-23 and 36A-24.

Nothing in this section shall be construed to limit the authority of the clerk of superior court to appoint a successor trustee to a deceased or incapacitated trustee upon his own motion.

"§ 36A-30. *Testamentary trustee may renounce.*—(a) Any person or corporation named as trustee in any will admitted to probate in this State, or any substitute trustee, may at any time prior to qualifying as required by G.S.

36A-98 or taking any action as trustee if such qualification is not required, and whether or not such person or corporation is entitled to so qualify or act, renounce such trusteeship by a writing filed with the clerk of superior court of the county in which the will is admitted to probate. Upon receipt of such renunciation the clerk shall give notice thereof to all persons interested in the trust, including successor or substitute trustees named in the will, which notice shall also comply with the requirements of subsection (e) of this section.

(b) If the will names or identifies a substitute trustee in case of renunciation, the provisions of the will shall be complied with, and the clerk shall enter an appropriate order appointing the substitute trustee in accordance therewith unless the substitute trustee also renounces. A substitute trustee so named shall succeed to the office of trustee upon the date of the order of appointment by the clerk unless the will provides otherwise.

(c) If the will does not name or identify a substitute trustee in case of renunciation, and it appears that a substitute trustee should be appointed, the clerk shall appoint some fit and suitable person or corporation as substitute trustee. If the will does not name or identify a substitute trustee, but contains provisions regarding the selection of a substitute trustee, such provisions shall be complied with unless the clerk determines that such provisions would result in the selection of an unfit or unsuitable trustee. A substitute trustee so appointed shall succeed to the office of trustee upon the date of the order of appointment unless the will provides otherwise.

(d) A substitute trustee shall, upon succeeding to the office of trustee, unless the will provides otherwise, have such powers and duties and be vested with the title to the property included in the trust, as if the substitute trustee had been originally named in the will.

(e) Each notice required by this section shall be written notice, and shall identify the proceeding and apprise the person to be notified of the nature of the action to be taken. Service of such notice may be in the same manner as is provided for service of notice in civil actions, or by mailing the notice to the person to be notified at his last known address. Service of notice must be completed not less than 10 days prior to the date the hearing is held or the action is taken. Service by mail shall be complete upon deposit of the notice enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Post Office Department.

(f) The clerk of superior court shall file, docket, and index all proceedings pursuant to this section in the same manner as special proceedings, and shall also enter with the will a notation that the trustee has renounced and a reference to the file, or other place where the record may be found.

"§ 36A-31. *Removal of trustee.*—Any beneficiary, cotrustee or other person interested in the trust estate may file a petition in the office of the clerk of superior court of the county having jurisdiction over the administration of the trust for the removal of a trustee or cotrustee who fails to comply with the requirements of this Chapter or a court order, or who is otherwise unsuitable to continue in office. Upon the filing of the petition, the clerk shall docket the cause as a special proceeding, with the petitioner as plaintiff. All known beneficiaries, trustees, or cotrustees not joined as plaintiffs shall be joined as defendants. Upon proper notice and hearing, the clerk may, in the exercise of his discretion, order the removal of the trustee or cotrustee and proceed to

appoint a successor. The procedure for notice, hearing, appeals, and the effective date of the order, shall be in accord with that provided for in the case of a resignation of a trustee and the appointment of a successor in G.S. 36A-20 through G.S. 36A-28.

Nothing in this section shall be construed to limit the authority of the clerk of superior court to remove a trustee or cotrustee for failure to comply with the requirements of this Chapter or a court order, or who is otherwise unsuitable to continue in office.

"§ 36A-32. *Appointment of special trustee.*—If it appears necessary to the protection of the trust estate, the clerk of superior court having jurisdiction of the administration of the trust may appoint a special trustee until a successor trustee can be appointed or, where a trust has terminated, to distribute the assets. A special trustee may be appointed without notice and may be removed whenever the court so orders. The special trustee shall give such bond, if any, as the court may require and shall have the powers conferred by the order of appointment.

"§ 36A-33. *Consolidation, merger, reorganization, reincorporation, or transfer of assets and liabilities by a corporate trustee.*—Whenever any corporate trustee doing business in this State shall consolidate or merge with or shall sell to and transfer its assets and liabilities to any other corporation, or where such corporate trustee is in any manner reorganized or reincorporated all existing rights, powers, duties, and liabilities of such consolidating, merging, transferring, reorganizing or reincorporating corporation as trustee shall, upon the effective date of such consolidation, merger, reorganization or reincorporation, or sale and transfer, vest in and devolve upon the transferee corporation or the consolidated, merged, reorganized or reincorporated corporation in the manner prescribed in G.S. 53-17.

"§ 36A-34. *Powers of successor trustee.*—Unless otherwise provided in the creating instrument, all powers conferred upon the trustee by such instrument attached to the office, as provided in G.S. 36A-64, and are exercisable by the trustee from time to time holding the office.

"§ 36A-35. *Powers of cotrustees.*—Unless otherwise provided in the creating instrument, if one of several trustees dies, resigns, or is removed, the remaining trustees shall have all rights, title, and powers of all the original trustees. If the creating instrument manifests an intent that a successor trustee be appointed to fill a vacancy, the remaining trustees may exercise the powers of all the original trustees until such time as a successor is appointed.

"§ 36A-36. *Vesting of title.*—A special or successor trustee is vested with the title of the original trustee. A trustee who resigns, is removed, or is otherwise severed from his office shall execute such documents transferring title to trust property as may be appropriate to facilitate administration of the trust and upon his failure to do so, the clerk may order him to execute such documents, or may himself transfer title.

"§ 36A-37. *Applicability.*—The provisions of this Article shall not apply to proceedings begun before the effective date of this Chapter.

"ARTICLE 4.

"Charitable Trusts.

"§ 36A-41. *Trustees to file accounts; exceptions.*—When real or personal property has been granted by deed, will, or otherwise, for such charitable purposes as are allowed by law, it shall be the duty of those to whom are

confided the management of the property and the execution of the trust, to file in writing annually a full and particular account thereof with the clerk of the superior court of the county where the charity is to take effect.

This section shall not apply to real or personal property granted by deed, will or otherwise in trust or any other manner for the use and benefit of churches, hospitals, educational institutions and organizations or other incorporated or unincorporated religious and charitable institutions; provided, however, all trusts for the benefit of churches, hospitals and charitable institutions may be required to file such account upon the request of the clerk of the superior court or the verified written request of an interested citizen when in the opinion of the clerk of the superior court such request is bona fide and the interest of the public would be promoted by the filing of such report.

"§ 36A-42. *Action for account; court to enforce trust.*—If G.S. 36A-41 be not complied with, or there is reason to believe that the property has been mismanaged through negligence or fraud, it shall be the duty of the clerk of the superior court in his discretion to give notice thereof to the Attorney General or district attorney who represents the State in the superior court for that county; and it shall be the duty of the Attorney General or such district attorney upon notice from the clerk or upon his own motion to bring an action in the name of the State against the grantees, executors, or trustees of the charitable fund, calling on them to render a full and minute account of their proceedings in relation to the administration of the fund and the execution of the trust. The Attorney General or district attorney may also, at the suggestion of two reputable citizens, commence an action as aforesaid, and, in either case, the court may make such order and decree as shall seem best calculated to enforce the performance of the trust.

In furtherance of his responsibilities in the area of charitable trusts the Attorney General may request the result or report of any investigation or audit conducted by any local, State or federal agency.

"§ 36A-43. *Not void for indefiniteness; title in trustee; vacancies.*—No gift, grant, bequest or devise, whether in trust or otherwise, to religious, educational, charitable or benevolent uses or for the purpose of providing for the care or maintenance of any part of any cemetery, public or private, shall be invalid by reason of any indefiniteness or uncertainty of the objects or beneficiaries of such trust, or because said instrument confers upon the trustee or trustees discretionary powers in the selection and designation of the objects or beneficiaries of such trust or in carrying out the purpose thereof, or by reason of the same in contravening any statute or rule against perpetuities. If a trustee or trustees are named in the instrument creating such a gift, grant, bequest or devise, the legal title to the property given, granted, bequeathed or devised for such purpose shall vest in such trustee or trustees and its or their successor or successors duly appointed in accordance with the terms of such instrument. If no trustee or trustees be named in said instrument, or if a vacancy or vacancies shall occur in the trusteeship, and no method is provided in such instrument for filling such vacancy or vacancies, then the clerk of superior court of the proper county shall appoint a trustee or trustees, pursuant to G.S. 36A-19, to execute said trust in accordance with the true intent and meaning of the instrument creating the same. Such trustee or trustees when so appointed shall be vested with all the power and authority, discretionary or otherwise, conferred by such instrument.

"§ 36A-44. *Trusts created in other states valid.*—Every such religious, educational or charitable trust created by any person domiciled in another state, which shall be valid under the laws of the state of the domicile of such creator or donor, shall be deemed and held in all respects valid under the laws of this State, even though one or more of the trustees named in the instrument creating said trust shall be domiciled in another state or one or more of the beneficiaries named in said trust shall reside or be located in a foreign state.

"§ 36A-45. *Application of G.S. 36A-44.*—G.S. 36A-44 shall apply to all trusts heretofore or hereafter created in which one or more of the beneficiaries or objects of such trust shall reside or be located in this State.

"§ 36A-46. *Gifts, etc., for religious, educational, charitable or benevolent uses or purposes.*—(a) Declaration of policy. It is hereby declared to be the policy of the State of North Carolina that gifts, transfers, grants, bequests, and devises for religious, educational, charitable, or benevolent uses or purposes, or for some or all of such uses or purposes, are and shall be valid, notwithstanding the fact that any such gift, transfer, grant, bequest, or devise shall be in general terms, and this section shall be construed liberally to affect the policy herein declared.

(b) No gift, transfer, etc., invalid for indefiniteness. No gift, transfer, grant, bequest, or devise of property or income, or both, in trust or otherwise, for religious, educational, charitable, or benevolent purposes, or for some or all of such purposes, is or shall be void or invalid because such gift, transfer, grant, bequest, or devise is in general terms, or is uncertain as to the specific purposes, objects, or beneficiaries thereof, or because the trustee, donee, transferee, grantee, legatee, or devisee, or some or all of them, is given no specific instructions, powers, or duties as to the manner or means of affecting such purposes. When any such gift, transfer, grant, bequest, or devise has been or shall be made in general terms the trustee, donee, transferee, grantee, legatee, or devisee, or other person, corporation, association, or entity charged with carrying such purposes into effect, shall have the right and power: To prescribe or to select from time to time one or more specific objects or purposes for which any trust or any property or income shall be held and administered; to select or to create the machinery for the accomplishment of such objects and purposes, selected as hereinabove provided, or as provided by the donor, transferor, grantor, or testator, including, by way of illustration but not of limitation, the accomplishment of such objects and purposes by the acts of such trustee or trustees, donee, transferee, grantee, legatee, or devisee, or their agents or servants, or by the creation of corporations or associations or other legal entities for such purpose, or by making grants to corporations, associations, or other organizations then existing, or to be organized, through and by which such purposes can or may be accomplished, or by some or all of the said means of accomplishment, or any other means of accomplishment not prohibited by law.

(c) Enforcement. Any gift, transfer, grant, bequest, or devise for religious, educational, charitable, or benevolent uses or purposes which is or shall be valid under the provisions of this section may be enforced in a suit for a writ of mandamus by the Attorney General of the State of North Carolina in any court of the State having original jurisdiction in equity, and such court shall have the power to enter judgment requiring the trustee, donee, transferee, grantee, legatee, or devisee, as the case may be, to make such selection as may be required of the purposes for which the property or income, or both, shall be applied, and the means, method, and manner of applying the same. The remedy

for enforcement as herein provided is in addition to any other means of enforcement now in existence or which may be hereafter provided for by act of the General Assembly.

(d) Construction with other acts. This section is in addition to any prior act or acts of the General Assembly adopted for the purpose of preserving and sustaining any gift, transfer, grant, bequest, or devise for religious, educational, charitable, or benevolent uses or purposes, and any such prior act or acts or any part thereof which will aid the provisions of this section in sustaining and preserving any such gift, transfer, grant, bequest, or devise shall be read and construed in conjunction herewith.

"§ 36A-47. *Charitable Trusts Administration Act.*—(a) If a trust for charity is or becomes illegal, or impossible or impracticable of fulfillment or if a devise or bequest for charity, at the time it was intended to become effective is illegal, or impossible or impracticable of fulfillment, and if the settlor, or testator, manifested a general intention to devote the property to charity, any judge of the superior court may, on application of any trustee, executor, administrator or any interested party, or the Attorney General, order an administration of the trust, devise or bequest as nearly as possible to fulfill the manifested general charitable intention of the settlor or testator. In every such proceeding, the Attorney General, as representative of the public interest, shall be notified and given an opportunity to be heard. This section shall not be applicable if the settlor or testator has provided, either directly or indirectly, for an alternative plan in the event the charitable trust, devise or bequest is or becomes illegal, impossible or impracticable of fulfillment. However, if the alternative plan is also a charitable trust or devise or bequest for charity and such trust, devise or bequest for charity fails, the intention shown in the original plan shall prevail in the application of this section.

(b) In the case of a will executed before December 31, 1977, or a trust created before such date, if a federal estate tax deduction is not allowable at the time of a decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in Section 2055(a) of the Internal Revenue Code of 1954, to meet the requirements of subsection 2055(e)(2)(A) of the Internal Revenue Code of 1954, then in order that such deduction shall nevertheless be allowable under Section 2055(e)(3) of the Internal Revenue Code of 1954, any judge of the superior court may, on application of any trustee, executor, administrator or any interested party and either (i) with the written consent of the charitable remaindermen, the beneficiaries of the intervening interest not under any legal disability, and duly appointed guardians or guardians ad litem acting on behalf of any beneficiaries under legal disability, or (ii) upon a finding that the interest of such beneficiaries is substantially preserved, order an amendment to the trust so that the remainder interest is in a trust which is a charitable remainder annuity trust, a charitable remainder unitrust (as those terms are described in Section 664 of the Internal Revenue Code of 1954) or a pooled-income fund (as that term is described in Section 642(c)(5) of the Internal Revenue Code of 1954). In every such proceeding, the Attorney General, as representative of the public interest, shall be notified, and given an opportunity to be heard.

(c) The words 'charity' and 'charitable', as used in this section shall include, but shall not be limited to, any eleemosynary, religious, benevolent, educational, scientific, or literary purpose.

(d) The words 'impracticable of fulfillment', as used in this section shall include, but shall not be limited to, the failure of any trust for charity, testamentary or inter vivos, (including, without limitation, trusts described in Section 509 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent federal tax laws and charitable remainder trusts described in Section 664 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent federal tax laws) to include, if required to do so by Section 508(e) or Section 4947(a) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent federal tax laws, the provisions relating to governing instruments set forth in Section 508(e) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent federal tax laws.

"§ 36A-48. *Charitable trusts tax exempt status.*—(a) Notwithstanding any provisions in the laws of this State or in the governing instrument to the contrary unless otherwise decreed by a court of competent jurisdiction except as provided in subsection (b), the governing instrument of each trust which is a private foundation described in Section 509 of the Internal Revenue Code of 1954 (including each nonexempt charitable trust described in Section 4947(a)(1) of the code which is treated as a private foundation) and the governing instrument of each nonexempt split-interest trust described in Section 4947(a)(2) of the code (but only to the extent that Section 508(e) of the code is applicable to such nonexempt split-interest trust under Section 4947(a)(2) of the code) shall be deemed to contain the following provisions: 'The trust shall make distribtuions at such time and in such manner as not to subject it to tax under Section 4942 of the code; the trust shall not engage in any act of self-dealing which would subject it to tax under Section 4941 of the code; the trust shall not retain any excess business holdings which would subject it to tax under Section 4943 of the code; the trust shall not make any investments which would subject it to tax under Section 4944 of the code; and the trust shall not make any taxable expenditures which would subject it to tax under Section 4945 of the code.' With respect to any such trust created prior to January 1, 1970, this subsection (a) shall apply only for its taxable years beginning on or after January 1, 1972.

(b) The trustee of any trust described in subsection (a) may, (i) without judicial proceedings, amend such trust to expressly exclude the application of subsection (a) by executing a written amendment to the trust and filing a duplicate original of such amendment with the Attorney General of the State of North Carolina, and upon filing of such amendment, subsection (a) shall not apply to such trust, or (ii) institute an action in the superior court of North Carolina seeking reformation of the trust instrument pursuant to the authority set forth in G.S. 36A-47.

(c) All references in this section to the 'code' are to the Internal Revenue Code of 1954, and all references in this section to specific sections of the code include corresponding provisions of any subsequent federal tax laws.

"ARTICLE 5.

"Uniform Trusts Act.

"§ 36A-52. *Definitions.*—As used in this Article unless the context or subject matter otherwise requires:

(1) 'Affiliate' means any person directly or indirectly controlling or controlled by another person, as herein defined, or any person under direct or indirect common control with another person. It includes any person with whom a

trustee has an express or implied agreement regarding the purchase of trust investments by each from the other, directly or indirectly, except a broker or stock exchange.

(2) 'Person' means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or two or more persons having a joint or common interest.

(3) 'Relative' means a spouse, ancestor, descendant, brother or sister.

(4) 'Trust' means an express trust only.

(5) 'Trustee' includes trustees, a corporate as well as a natural person and a successor or substitute trustee.

"§ 36A-53. *Bank account to pay special debts.*—(a) Whenever a bank account shall, by entries made on the books of the depositor and the bank at the time of the deposit, be created exclusively for the purpose of paying dividends, interest or interest coupons, salaries, wages, or pensions or other benefits to employees, and the depositor at the time of opening such account does not expressly otherwise declare, the depositor shall be deemed a trustee of such account for the creditors to be paid therefrom, subject to such power or revocation as the depositor may have reserved by agreement with the bank.

(b) If any beneficiary for whom such a trust is created does not present his claim to the bank for payment within one year after it is due, the depositor who created such trust may revoke it as to such creditor.

"§ 36A-54. *Loan of trust funds.*—Except as hereinafter provided in this Article, no corporate trustee shall lend trust funds to itself or an affiliate, or other business associate, or to any director, officer, or employee of itself or of an affiliate, nor shall any noncorporate trustee lend trust funds to himself, or to his relative, employer, employee, partner, affiliate, or other business associate.

"§ 36A-55. *Funds held by a bank awaiting investment or distribution.*—(a) Funds held in a fiduciary capacity by a bank awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

(b) Funds held in trust by a bank, awaiting investment or distribution may, unless prohibited by the instrument creating the trust, be deposited in the commercial or savings or other department of the bank, provided that it shall first set aside under control of the trust department as collateral security, such securities as may be found listed in G.S. 142-34 as being eligible for the investment of the sinking funds of the State of North Carolina equal in market value of such deposited funds, or readily marketable commercial bonds having not less than a recognized 'A' rating equal to one hundred and twenty-five percent (125%) of the funds so deposited.

The securities so deposited or securities substituted therefor as collateral in the trust department by the commercial or savings or other department (as well as the deposit of cash in the commercial or savings or other department by the trust department) shall be held pursuant to the provisions of G.S. 53-43(6).

If such funds are deposited in a bank insured under the provisions of the Federal Deposit Insurance Corporation, the above collateral security will be required only for that portion of uninvested balances of each trust which are not fully insured under the provisions of that corporation.

"§ 36A-56. *Loan to trust.*—A trustee may make a loan to a trust account and may take as security therefor assets of the trust account provided that such transaction is fair.

"§ 36A-57. *Trustee loaning from one trust to another trust.*—A trustee may make a loan to a trust account from the funds belonging to another trust account, when the instrument creating the account from which the loan is made (i) authorizes the making of such loan and (ii) designates the trust account to which the loan is made, provided that the transaction is fair to both accounts.

"§ 36A-58. *Trustee buying from or selling to self.*—No trustee shall directly or indirectly buy or sell any property for the trust from or to itself or an affiliate; or from or to a director, officer, or employee of such trustee or of an affiliate, or from or to a relative, employer, partner, or other business associate.

"§ 36A-59. *Corporate trustee buying its own stock.*—No corporate trustee shall purchase for a trust shares of its own stock, or its bonds or other securities, or the stocks, bonds or other securities of an affiliate.

"§ 36A-60. *Trustee selling assets from one trust to another trust.*—A trustee may sell assets held by it as fiduciary in one trust account to itself as trustee in another trust account if the transaction is fair to both accounts and if the transaction is expressly authorized by the instrument or instruments creating the accounts.

"§ 36A-61. *Voting stock.*—A trustee owning shares of corporate stock or other securities may vote it in person or by general or limited proxy, but shall be liable for any loss resulting to the beneficiaries from a failure to use reasonable care in deciding how to vote the stock, in voting it or in not voting it.

"§ 36A-62. *Trustees holding stock or other securities in name of nominee.*—A trustee may hold shares of stock or other securities in the name of a nominee, without mention of the trust relationship in the instrument representing stock or other securities or in registration records of the issuer thereof; provided, that

(1) the records and all reports or accounts rendered by the trustee clearly show the ownership of the stock or other securities by the trustee and the facts regarding its holdings, and

(2) the nominee shall not have possession of the stock or other securities or access thereto except under the immediate supervision of the trustee or when such securities are deposited by the fiduciary in a clearing corporation as defined in G.S. 25-8-102(3).

The trustee shall be personally liable for any acts or omissions of such nominee in connection with such stock or other securities so held, as if such had done such acts or been guilty of such omissions.

"§ 36A-63. *Bank and trust company assets kept separate, records of securities.*—Every trust company shall keep its trust assets separate and distinct from assets owned by the bank. The books and accounts of the trust company shall at all times show the ownership of all moneys, funds, investments, and property held by the company. Stock or other securities may be kept by the company in either of the following ways:

(1) All certificates representing the securities of an account may be held separate from those of all other accounts; or

(2) Certificates representing the securities of the same class of the same issuer held for particular accounts may be held in bulk without certification as to ownership attached and, to the extent feasible, certificates of small denomination may be merged into one or more certificates of larger denomination, provided that the trust company, when operating under the method of safekeeping security certificates described in this subdivision shall be subject to such rules and regulations as, in the case of State-chartered

institutions, the State Banking Commission and, in the case of national banking associations, the Comptroller of the Currency, may from time to time issue and, upon demand by any person to whom it has a duty to account, it shall certify in writing the securities held by it for an account.

"§ 36A-64. *Powers attached to office.*—Unless it is otherwise provided by the trust instrument, or an amendment thereof, or by court order, all powers of a trustee shall be attached to the office and shall not be personal.

"§ 36A-65. *Powers exercisable by one or more trustees.*—(a) If there are more than two trustees and the trust instrument expressly makes provision for the execution of any of the powers of trustees by all of them or by any one or more of them, the provisions of the trust instrument govern.

(b) If there is no governing provision in the trust instrument, cotrustees may, by written agreement signed by all of them and filed with and approved by the clerk of superior court of the county which is the principal place of administration of the trust, provide that any one or more of the following powers of trustees may be exercised by any designated one or more of them:

(1) open bank accounts and draw checks thereon;
(2) subject to the provisions of G.S. 105-24, enter any safe-deposit box of the deceased or any safe-deposit box rented by the trust;
(3) employ attorneys and accountants;
(4) list property for taxes and prepare and file State, municipal and county tax returns;
(5) collect claims and debts due the trust and give receipts therefor;
(6) pay claims against and debts of the trust;
(7) compromise claims in favor of or against the trust;
(8) have custody of property of the trust.

For the purposes of this subsection, when there are cotrustees, the principal place of administration of the trust is (1) the usual place of business of the corporate trustee if there is but one corporate cotrustee, or (2) the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate trustee, and (3) the usual place of business or residence of any of the cotrustees as agreed upon by them.

(c) The voting of corporate shares of stock by cotrustees is governed by G.S. 55-69(f).

(d) Subject to the provisions of subsections (a), (b) and (c) of this section, all other acts and duties must be performed by both of the trustees if there are two, or by a majority of them if there are more than two.

No trustee who has not joined in exercising a power shall be liable to the beneficiaries or to others for the consequences of such exercise, nor shall a dissenting trustee be liable for the consequences of an act in which he joins at the direction of his cotrustees, if he expressed his dissent in writing to any of his cotrustees at or before the time of such joinder.

(e) No trustee shall be relieved of liability on his bond or otherwise by entering into any agreement under this section.

"§ 36A-66. *Contracts of trustee.*—(a) Whenever a trustee shall make a contract which is within his powers as trustee, or a predecessor trustee shall have made such a contract, and a cause of action shall arise thereon, the party in whose favor the cause of action has accrued may sue the trustee in his representative capacity, and any judgment rendered in such action in favor of the plaintiff shall be collectable (by execution) out of the trust property. In such

an action the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

(b) No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within 30 days after the beginning of such action, or within such other time as the court may fix, and more than 30 days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustee who then had a present interest, or in the case of a charitable trust the Attorney General and any corporation which is a beneficiary or agency in the performance of such charitable trust, of the existence and nature of the action. Such notice shall be given by mailing copies thereof in postpaid envelopes addressed to the parties to be notified at their last known addresses. The trustee shall furnish the plaintiff a list of the parties to be notified, and their addresses, within 10 days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this section. Any beneficiary, or in the case of charitable trusts the Attorney General and any corporation which is a beneficiary or agency in the performance of such charitable trust, may intervene in such action and contest the right of the plaintiff to recover.

(c) The plaintiff may also hold the trustee who made the contract personally liable on such contract, if the contract does not exclude such personal liability. The addition of the word 'trustee' or the words 'as trustee' after the signature of a trustee to a contract shall be deemed prima facie evidence of an intent to exclude the trustee from personal liability.

"§ 36A-67. *Exoneration or reimbursement for torts.*—(a) A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property if he has not discharged the claim, or to be reimbursed therefor out of trust funds if he has paid the claim, if

(1) the tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust, or,

(2) although the tort was not a common incident of such activity if neither the trustee nor any officer or employee of the trustee was guilty of personal fault in incurring the liability.

(b) If a trustee commits a tort which increases the value of the trust property, he shall be entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though he would not otherwise be entitled to exoneration or reimbursement.

(c) Nothing in this section shall be construed to change the existing law with regard to the liability of trustees of charitable trusts for torts of themselves or their employees.

"§ 36A-68. *Tort liability of trust estate.*—(a) Where a trustee or his predecessor has incurred personal liability for a tort committed in the course of his administration, the trustee in his representative capacity may be sued and collection had from the trust property, if the court shall determine in such action that

(1) the tort was a common incident of the kind of business activity in which the trustee or his predecessor was properly engaged for the trust; or

(2) that, although the tort was not a common incident of such activity, neither the trustee nor his predecessor, nor any officer or employee of

the trustee or his predecessor, was guilty of personal fault in incurring the liability; or

(3) that, although the tort did not fall within subdivision (1) or (2) above, it increased the value of the trust property.

If the tort is within subdivision (1) or (2) above, collection may be had of the full amount of damage proved; and if the tort is within subdivision (3) above, collection may be had only to the extent of the increase in the value of the trust property.

(b) In an action against the trustee in his representative capacity under this section the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

(c) No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within 30 days after the beginning of the action, or within such other period as the court may fix and more than 30 days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustees who then had a present interest of the existence and nature of the action. Such notice shall be given by mailing copies thereof in postpaid envelopes addressed to such beneficiaries at their last known addresses. The trustees shall furnish the plaintiff a list of such beneficiaries and their addresses, within 10 days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this section. Any beneficiary may intervene in such action and contest the right of the plaintiff to recover.

(d) The trustee may also be held personally liable for any tort committed by him, or by his agents or employees in the course of their employments, subject to the rights of exoneration or reimbursement provided in G.S. 36A-67.

(e) Nothing in this section shall be construed to change the existing law with regard to the liability of trustees of charitable trusts for torts of themselves or their employees.

"§ 36A-69. *Withdrawals from mingled trust funds.*—Where a person who is a trustee of two or more trusts has mingled the funds of two or more trusts in the same aggregate of cash, or in the same bank or brokerage account or other investment, and a withdrawal is made therefrom by the trustee for his own benefit, or for the benefit of a third person not a beneficiary or creditor of one or more of the trusts, or for an unknown purpose, such a withdrawal shall be charged first to the amount of cash, credit, or other property of the trustee in the mingled fund, if any, and after the exhaustion of the trustee's cash, credit, or other property, then to the several trusts in proportion to their several interests in the cash, credit, or other property at the time of the withdrawal.

"§ 36A-70. *Power of settlor.*—The settlor of any trust affected by this Article may, by provision in the instrument creating the trust if the trust was created by a writing, or by oral statement to the trustee at the time of the creation of the trust if the trust was created orally, or by an amendment of the trust if the settlor reserved the power to amend the trust, relieve liabilities which would otherwise be imposed upon him by this Article; or alter or deny to his trustee any or all of the privileges and powers conferred upon the trustee by this Article; or add duties, restrictions, liabilities, privileges, or powers, to those imposed or granted by this Article; but no act of the settlor shall relieve a trustee from the duties, restrictions, and liabilities imposed upon him by G.S. 36A-54, G.S. 36A-55 and G.S. 36A-58.

"§ 36A-71. *Power of beneficiary.*—Any beneficiary of a trust affected by this Article may, if of full legal capacity and acting upon full information, by written instrument delivered to the trustee relieve the trustee as to such beneficiary from any or all of the duties, restrictions, and liabilities which would otherwise be imposed on the trustee by this Article, except as to the duties, restrictions, and liabilities imposed by G.S. 36A-54, G.S. 36A-55 and G.S. 36A-58. Any such beneficiary may release the trustee from liability to such beneficiary for past violations of any of the provisions of this Article.

"§ 36A-72. *Power of the court.*—A court of competent jurisdiction may, for cause shown and upon notice to the beneficiaries relieve a trustee from any or all of the duties and restrictions which would otherwise be placed upon him by this Article, or wholly or partly excuse a trustee who has acted honestly and reasonably from liability for violations of the provisions of this Article.

"§ 36A-73. *Liabilities for violations of Article.*—If a trustee violated any of the provisions of this Article, he may be removed and denied compensation in whole or in part; and any beneficiary, cotrustee, or successor trustee may treat the violation as a breach of trust.

"§ 36A-74. *Uniformity of interpretation.*—This Article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

"§ 36A-75. *Short title.*—This Article may be cited as the Uniform Trusts Act.

"§ 36A-76. *Time of taking effect.*—This Article shall take effect and shall apply in the construction of and operation under

(1) all agreements containing trust provisions entered into on or after the effective date of this Chapter;

(2) all wills made by testators who shall die on or after the effective date of this Chapter; and

(3) all other wills and trust agreements and trust relations insofar as such terms do not impair the obligation of contract or deprive persons of property without due process of law under the Constitution of the State of North Carolina or of the United States of America.

"ARTICLE 6.

"Uniform Common Trust Fund Act.

"§ 36A-82. *Establishment of common trust funds.*—(a) Any bank or trust company duly authorized to act as a fiduciary in this State may establish and maintain one or more common trust funds for the collective investment of funds held in a fiduciary capacity by such bank or trust company hereafter referred to as the 'maintaining bank'. The maintaining bank may include for the purposes of collective investment in such common trust fund or funds established and maintained by it, funds held in a fiduciary capacity by any other bank or trust company duly authorized to act as a fiduciary, wherever located, which other bank or trust company is hereinafter referred to as the 'participating bank'.

Provided, however, that the relationship between the maintaining bank and the participating bank is (i) the maintaining bank owns, controls or is affiliated with the participating bank or (ii) a bank holding company owns, controls or is affiliated with both the maintaining bank and the participating bank.

(b) For the purposes of this section, a bank or trust company shall be considered to be owned, controlled or affiliated if twenty-five percent (25%) or more of any class of its voting stock is owned by a bank or bank holding

company or if twenty-five percent (25%) or more of any class of its voting stock is owned by one person or no more than 10 persons who are the same person or persons who own twenty-five percent (25%) or more of any class of the voting stock of the maintaining bank.

(c) Such common trust funds may include a fund composed solely of funds held under an agency agreement in which the bank or trust company assumes investment discretion and assumes fiduciary responsiblity.

(d) Such bank or trust company may invest the funds held by it in any fiduciary capacity in one or more common trust funds, provided (i) such investment is not prohibited by the instrument, judgment, decree or order creating such fiduciary relationship or amendment thereof; (ii) in the case of co-fiduciaries the written consent of the co-fiduciary is obtained by the bank or trust company; and (iii) that the bank has no interest in the assets of the common trust fund other than as a fiduciary.

"§ 36A-83. *Court accountings.*—Unless ordered by a court of competent jurisdiction the bank or trust company operating such common trust fund or funds shall not be required to render a court accounting with regard to such fund or funds; but it may, by application to the superior court, secure approval of such an accounting on such conditions as the court may establish. This section shall not affect the duties of the trustees of the participating trusts under the common trust fund to render accounts of their several trusts.

"§ 36A-84. *Supervision by State Banking Commission.*—All common trust funds established under the provisions of this Article shall be subject to the rules and regulations of the State Banking Commission.

"§ 36A-85. *Uniformity of interpretation.*—This Article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

"§ 36A-86. *Short title.*—This Article may be cited as the Uniform Common Trust Fund Act.

"ARTICLE 7.

"Trusts of Death Benefits.

"§ 36A-92. *Interest of trustee as beneficiary of life insurance or other death benefit sufficient to support inter vivos or testamentary trust.*—(a) The interest of a trustee as the beneficiary of a life insurance policy is a sufficient property interest or res to support the creation of an inter vivos or testamentary trust notwithstanding the fact that the insured or any other person or persons reserves or has the right to exercise any one or more of the following rights or powers:

(1) to change the beneficiary,

(2) to surrender the policy and receive the cash surrender value,

(3) to borrow from the insurance company issuing the said policy or elsewhere using the said policy as collateral security,

(4) to assign the said policy, or

(5) to exercise any other right in connection with the said policy commonly known as an incident of ownership thereof.

The term 'life insurance policy' includes but is not limited to life, annuity, and endowment contracts, or any variation or combination thereof, and any agreement entered into by an insurance company in connection therewith.

(b) The interest of a trustee as the beneficiary of a death benefit under an employee benefit plan or group life insurance policy is a sufficient property

interest or res to support the creation of an inter vivos or testamentary trust notwithstanding the fact that the insured, employer, insurer or administrator of the plan reserves or has the right to revoke or otherwise defeat the designation or assignment or to exercise any one or more of the rights or powers incident to employee benefit plans or group life insurance policies.

The term 'employee benefit plan' includes but is not limited to pension, retirement, death benefit, deferred compensation, employment, agency, retirement annuity, stock bonus, profit-sharing or employees' savings contracts, plans, systems or trusts; and trusts, securities or accounts established or held pursuant to the federal Self-Employed Individuals Tax Retirement Act of 1962, the federal Employee Retirement Income Security Act of 1974, or similar legislation. The term 'group life insurance policy' includes but is not limited to group life, industrial life, accident, and health insurance policies having death benefits.

(c) A person having the right to designate the beneficiary under a life insurance policy, employee benefit plan or group life insurance policy described in subsection (a) or (b) of this section may designate as such beneficiary a trustee named or to be named in his will whether or not the will is in existence at the time of the designation. The proceeds received by the trustee shall be held and disposed of as part of the trust estate under the terms of the will as they exist at the death of the testator. If no qualified trustee makes claim to the proceeds within six months after the death of the decedent or if within that period it is established that no trustee can qualify to receive the proceeds, payments shall be made to the personal representative of the estate of the person making the designation unless it is otherwise provided by an alternative designation or by the policy or plan. The proceeds received by the trustee shall not be subject to claims against the estate of the decedent or to inheritance taxes to any greater extent than if the proceeds were payable directly to the beneficiary or beneficiaries named in the trust. The proceeds may be commingled with any other assets which may properly become part of such trust, but the proceeds shall not become part of the decedent's estate for purposes of trust administration unless the will of the decedent expressly so provides.

(d) Pursuant to the preceding subsection (c) of this section, a decedent may designate a trustee named or to be named in his will as beneficiary of an annuity or other payment described in Section 2039(c) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent federal tax laws. The decedent's will may prohibit the use of such an annuity or other payment for the benefit of the decedent's estate.

"§ 36A-93. *Applicability and construction of Article.*—G.S. 36A-92 applies to any beneficiary designation made before or after the effective date of this Article by a person who dies on or after that date. It does not create any implication of invalidity or ineffectiveness as to any beneficiary designation made by a person who dies before the effective date of this Article. If any part of the Article is held invalid, such invalidity shall not affect the validity of the remaining provisions of this Article.

"ARTICLE 8.

"Testamentary Trustees.

"§ 36A-98. *Trustees in wills to qualify and file inventories and accounts.*—Trustees appointed in any will admitted to probate in this State, into whose hands assets come under the provisions of the will, shall first qualify under the

laws applicable to executors, and shall file in the office of the clerk of the county where the will is probated inventories of the assets which come into his hands and annual and final accounts thereof, such as are required of executors and administrators. The power of the clerk to enforce the filing and his duties in respect to auditing and approving shall be the same as in such cases. This section shall not apply to the extent that any will makes a different provision in regard to the requirements for filing inventories and accounts."

Sec. 3. Except as otherwise specifically provided, this act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

S. B. 262 **CHAPTER 503**

AN ACT TO PROVIDE FOR ACTUARIAL NOTES EVALUATING ALL PUBLIC RETIREMENT SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the "Retirement Systems Actuarial Note Act".

Sec. 2. Duties and functions of Fiscal Research Division. (a) The Fiscal Research Division of the Legislative Services Commission of the General Assembly shall have authority to evaluate on a continuing basis all aspects of any State, municipal, or other retirement system, funded in whole or in part out of public funds, as to actuarial soundness. The Fiscal Research Division shall make periodic detailed reports both to the General Assembly and the Governor specifically setting forth the findings of such evaluations. In conducting its evaluations the division shall have complete access to all books and accounts of the retirement systems.

(b) No provision of this act shall be deemed or in any way construed to preclude the authority of any retirement system funded in whole or in part out of public funds to hire an actuary for any such retirement system.

(c) The Fiscal Research Division shall, in addition to the powers and functions conferred by this act, render such assistance as the Legislative Services Commission may require with respect to any other matter requiring actuarial evaluations.

Sec. 3. Actuarial Notes. (a) Every bill, joint resolution, and simple or concurrent resolution introduced in the General Assembly proposing any change in the law relative to any State, municipal, or other retirement system, funded in whole or in part out of public funds, shall have attached to it at the time of its consideration by any committee of either house of the General Assembly a brief explanatory statement or note which shall include a reliable estimate of the financial and actuarial effect of the proposed change in any such retirement system. This actuarial note shall be attached to the original of each proposed bill or resolution which is reported favorably by any committee of either house of the General Assembly, but shall be separate therefrom, shall be clearly designated as an actuarial note and shall not constitute a part of the law or other provisions or expression of legislative intent proposed by the bill or resolution.

(b) The author of each bill or resolution shall present a copy of the bill or resolution, with his request for an actuarial note, to the Fiscal Research

Division which shall have the duty to prepare said actuarial note as promptly as possible. Actuarial notes shall be prepared in the order of receipt of request for such notes but shall be transmitted to the author or authors of the measure in quintuplicate no later than two weeks after the request for the actuarial note is made. Any person who signs an actuarial note knowing it to contain false information shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than six months, or both.

(c) The author of each bill or resolution shall also present a copy of the bill or resolution to any actuary employed by the retirement system affected by the bill or resolution in question. Such actuary shall prepare an actuarial note and transmit it to the author or authors of the measure in quintuplicate no later than two weeks after the request for the actuarial note is received. Any person who signs an actuarial note knowing it to contain false information shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than six months, or both.

(d) The note shall be factual and shall, if possible, provide a reliable estimate of both the immediate effect and, if determinable or reasonably foreseeable, the long range fiscal and actuarial effect of the measure. If, after careful investigation, it is determined that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. No comment or opinion shall be included in the actuarial note with regard to the merits of the measure for which the note is prepared. However, technical and mechanical defects may be noted.

(e) At any time any committee of either house reports any legislative instrument, to which an actuarial note or notes are attached at the time of committee consideration, with any amendment of such nature as would substantially affect the cost to or the revenues of any retirement system as stated in the actuarial note or notes attached to the measure at the time of such consideration, it shall be the responsibility of the chairman of the committee reporting such instrument to obtain from the Fiscal Research Division an actuarial note of the fiscal and actuarial effect of the change proposed by the amendment reported. Such actuarial note shall be attached to the report of the committee on the measure as a supplement thereto. A floor amendment to a bill or resolution to which an actuarial note was attached at the time of committee consideration of the bill or resolution shall not be in order, if the amendment affects the costs to or the revenues of a retirement system, unless the amendment is accompanied by an actuarial note, prepared by the Fiscal Research Division, as to the actuarial effect of the amendment.

Sec. 4. Partial invalidity. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification but shall apply only to legislation and amendments introduced after August 1, 1977.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

S. B. 409 **CHAPTER 504**

AN ACT TO AMEND THE HISTORIC ALBEMARLE TOUR HIGHWAY ACT.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of Section 2 of Chapter 567 of the Session Laws of 1975, is hereby amended by adding immediately after subdivision (20) thereof the following subdivision:

"(21) N.C. 11 from Murfreesboro south to the Pitt-Martin County Line."

Sec. 2. Section 2 of Chapter 567 of the Session Laws of 1975, is hereby amended by adding immediately following subsection (d) thereof the following subsections:

"(e) The department is authorized to manufacture and erect 100 signs, 16 square feet in area, with the words 'Historic Albemarle Tour Highway' imprinted thereon, with the logo of the Historic Albemarle Tour, Inc., further imprinted thereon either above, below or to one side of the imprinted words and to locate said signs throughout the historic Albemarle area on the Historic Albemarle Tour Highways.

(f) The department is authorized to manufacture and erect an additional 20 signs, 4.5 square feet in area, and imprinted with the words 'Historic Albemarle Tour Site' and imprinted with the logo of the Historic Albemarle Tour, Inc., and to locate said signs as determined by the site manager or director of each Historic Albemarle Tour, Inc., site in cooperation with the Board of Transportation.

(g) The department is authorized to manufacture and erect 60 directional site signs imprinted with the words 'Historic Albemarle Tour Site' and with an arrow to direct tourists to the respective Historic Albemarle Tour, Inc., sites from major highway intersections, and to locate said signs as determined by the respective site manager or director in cooperation with the Board of Transportation.

(h) The Elizabethan Gardens at Fort Raleigh National Historic Site may be included among the above sites for the manufacture, erection and placement of signs."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

S. B. 605 **CHAPTER 505**

AN ACT TO PROVIDE THAT SERVICE OF SUBPOENAS ISSUED BY THE INDUSTRIAL COMMISSION CAN BE DONE BY ANYONE NOT A PARTY TO THE ACTION, IN ACCORDANCE WITH THE RULES OF CIVIL PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-80(b) is hereby rewritten to read as follows:

"(b) All subpoenas of the commission or its deputies shall be served in the manner and for the same fees as are now provided by law for like services; each witness who appears in obedience to such subpoena of the commission shall receive for attendance the fees and mileage for witnesses in civil cases in courts of the county where the hearing is held."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

S. B. 691 **CHAPTER 506**

AN ACT TO AMEND G.S. 116-36, CONCERNING ENDOWMENT FUNDS FOR CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-36 is hereby rewritten in its entirety to read as follows:

"§ 116-36. *Endowment fund.*—(a) The board of trustees of each constituent institution shall establish and maintain, pursuant to such terms and conditions, uniformly applicable to all constituent institutions, as the Board of Governors of The University of North Carolina may from time to time prescribe, an endowment fund for the constituent institution.

(b) It is not the intent of this section that the proceeds from any endowment fund shall take the place of State appropriations or any part thereof, but it is the intent of this section that those proceeds shall supplement the State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service, and may become more useful to a greater number of people.

(c) Pursuant to the foregoing subsections and consistent with the powers and duties prescribed in this section, each board of trustees shall appoint an investment board to be known as 'The Board of Trustees of the Endowment Fund of _____' (here shall be inserted the name of the constituent institution).

(d) The trustees of the endowment fund may receive and administer as part of the endowment fund gifts, devises, and bequests and any other property of any kind that may come to them from the Board of Governors of The University of North Carolina or that may come to the trustees of the endowment fund from any other source, excepting always the moneys received from State appropriations and from tuition and fees collected from students and used for the general operation of the institution.

(e) The trustees of the endowment fund shall be responsible for the prudent investment of the fund in the exercise of their sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries but in compliance with any lawful condition placed by the donor upon that part of the endowment fund to be invested.

(f) In the process of prudent investment of the fund or to realize the statutory intent of the endowment, the board of trustees of the endowment fund may expend or use interest and principal of gifts, devises, and bequests; provided that, the expense or use would not violate any condition or restriction imposed by the original donor of the property which is to be expended or used. To realize the statutory intent of the endowment fund, the board of trustees of the endowment fund may transfer interest or principal of the endowment fund to the useful possession of the constituent institution; provided that, the transfer would not violate any condition or restriction imposed by the original donor of the property which is the subject of the proposed transfer.

(g) The trustees of the endowment fund shall have the power to buy, sell, lend, exchange, lease, transfer, or otherwise dispose of or to acquire (except by pledging their credit or violating a lawful condition of receipt of the corpus into the endowment fund) any property, real or personal, with respect to the fund, in either public or private transaction, and in doing so they shall not be subject to the provisions of Chapters 143 and 146 of the General Statutes; provided that, any expense or financial obligation of the State of North Carolina created by any acquisition or disposition, by whatever means, of any real or personal property of the endowment fund shall be borne by the endowment fund unless authorization to satisfy the expense or financial obligation from some other source shall first have been obtained from the Advisory Budget Commission.

(h) The Board of Governors of The University of North Carolina shall establish and maintain in a manner not inconsistent with the provisions of this section or with regulations established under this section an endowment fund for all endowment funds now held or hereafter acquired by The University of North Carolina for the benefit of The University as a whole, or for the joint benefit of any two or more constituent institutions of The University.

(i) The Board of Governors of The University of North Carolina shall establish and maintain in a manner not inconsistent with the provisions of this section or with regulations established under this section an endowment fund for all endowment funds now held or hereafter acquired for the benefit of The University of North Carolina Press.

(j) Any gift, devise, or bequest of real or personal property to a constituent institution of The University of North Carolina or to The University of North Carolina or to The University of North Carolina Press shall be presumed, nothing to the contrary appearing, a gift, devise, or bequest, as the case may be, to the endowment fund of the respective institution or agency.

(k) Whenever any property of an endowment fund authorized by this section is disposed of or otherwise transferred from the endowment fund, any instrument of transfer shall indicate that the donor, grantor, seller, lessor, lender, or transferor, as the case may be, is the board of trustees of the endowment fund."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1977.

H. B. 331 CHAPTER 507

AN ACT TO AMEND THE UNIFORM BOLL WEEVIL ERADICATION ACT, ARTICLE 4F OF CHAPTER 106.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.73 is amended by inserting between the first and second sentences thereof the following:

"The Commissioner is also authorized to promulgate regulations governing the movement of regulated articles from other states or portions thereof into this State when such state is known to be infested with the boll weevil."

Sec. 2. G.S. 106-65.74 is amended by inserting between the first and second sentences thereof the following:

"The Commissioner is authorized to promulgate reasonable regulations regarding areas where cotton cannot be planted within an elimination zone

when he has reason to believe it will jeopardize the success of the program or present a hazard to public health or safety."

Sec. 3. G.S. 106-65.74 is further amended by adding at the end thereof the following:

"The Commissioner is authorized to set by regulation a reasonable schedule of penalty fees to be assessed when growers in designated 'elimination zones' do not meet the requirements of regulations issued by the Commissioner with respect to reporting of acreage (G.S. 106-65.73) and participation in cost sharing as prescribed by regulation. Such penalty fees shall not exceed a charge of twenty-five dollars ($25.00) per acre. When a grower fails to meet the requirements of regulations promulgated by the Commissioner, the Commissioner shall have authority in elimination zones to destroy cotton not in compliance with such regulations."

Sec. 4. G.S. 106-65.75 is amended by rewriting the first sentence thereof to read as follows:

"The Commissioner or his authorized representative shall have authority to destroy, or in his discretion, to treat with pesticides volunteer or other noncommercial cotton and to establish procedures for the purchase and destruction of commercial cotton in elimination zones when the Commissioner deems such action necessary to effectuate the purposes of this Article."

Sec. 5. G.S. 106-65.75 is further amended by adding at the end of the second sentence thereof the following:

"or the regulations adopted pursuant thereto."

Sec. 6. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to the Department of Agriculture to implement the provisions of this act.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 452 CHAPTER 508

AN ACT TO AMEND G.S. 25A-23 TO ALLOW THE SELLER OF AGRICULTURAL PRODUCTS TO TAKE A SECURITY INTEREST IN AGRICULTURAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-23(a) is amended by adding a new subdivision (6) to read:

"(6) Any property which is used for agricultural purposes, if the property sold is to be used in the operation of an agricultural business."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 506

CHAPTER 509

AN ACT TO PROVIDE FOR FOUR ADDITIONAL MEMBERS ON THE EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-510 is rewritten to read as follows:

"§ 143-510. *Emergency Medical Services Advisory Council.*—(a) There is hereby created an Emergency Medical Services Advisory Council composed of 21 members to consult with the Secretary of the Department of Human Resources in the administration of this Article. The Secretary of the Department of Human Resources shall appoint 17 members with at least one member representing each of the following categories: (1) physicians licensed to practice medicine versed in treatment of trauma and suddenly occurring illnesses, (2) emergency room nurses, (3) hospitals, (4) providers of ambulance service (including rescue squads), (5) local government, and (6) the general public. The Lieutenant Governor shall appoint two members from the Senate, and the Speaker of the House of Representatives shall appoint two members from the House of Representatives.

(b) Members appointed by the Secretary of the Department of Human Resources shall hold office for a term of four years beginning July 1, 1973, and quadrennially thereafter, except the terms of the members first taking office shall expire, as designated at the time of appointment, six at the end of the second year, six at the end of the third year, and five at the end of the fourth year. Members appointed by the Lieutenant Governor and the Speaker shall serve for two years coinciding with the term for which they were elected to the General Assembly. Vacancies shall be filled by the office making the initial appointment and for the remainder of the unexpired term only.

(c) The council shall meet at least once each quarter and at the call of the Secretary of the Department of Human Resources. The council shall elect its chairman annually.

(d) Council members who are not members of the General Assembly or State employees or officers shall receive per diem, travel, and subsistence as provided by G.S. 138-5 while engaged in council business or attending council meetings. Council members who are members of the General Assembly shall receive travel and subsistence allowances as provided by G.S. 120-3.1. Council members who are State employees or officers shall receive travel and subsistence as provided by G.S. 138-6."

Sec. 2. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the Department of Human Resources, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 624

CHAPTER 510

AN ACT TO EXPAND THE YOUTH ADVISORY COUNCIL AND TO PROVIDE FOR THE TERMS OF MEMBERS OF THE COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. The first and second paragraphs of G.S. 143B-386, lines one through 23 of the section as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby rewritten to read as follows:

"The State Youth Advisory Council of the Department of Administration shall consist of 20 members. The composition and appointment of the council shall be as follows:

Ten youths to be elected by the procedure adopted by the Youth Advisory Council; and 10 adults to be appointed by the Governor.

The initial members of the council shall be the appointed members of the Youth Advisory Board who shall serve for a period equal to the remainder of their current terms on the Youth Advisory Board. The current terms of the youth members expire July 1, 1976, the current terms of four of the adult members expire April 7, 1976, and the remaining four adult members' terms expire May 1, 1978. At the end of the respective terms of office of the initial members of the council, the appointment of their successors shall be as follows:

(1) Eight youth members to serve for terms beginning on July 1, 1976, and expiring on June 30, 1977, and two additional youth members to serve for terms beginning on July 1, 1977, and expiring on June 30, 1978. At the end of the terms of office of these youth members of the council, the appointment of their successors shall be for terms of one year and until their successors are appointed and qualify.

(2) Four adult members to serve for terms beginning on April 8, 1976, and expiring on June 30, 1979; four adult members to serve for terms beginning on May 1, 1978, and expiring on June 30, 1980; one additional adult member to serve for a term beginning July 1, 1977, and expiring June 30, 1978; and one additional adult member to serve for a term beginning July 1, 1977, and expiring June 30, 1979. At the end of the respective terms of office of these adult members of the council, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. The total membership shall reasonably reflect the socioeconomic, ethnic, sexual and sectional composition of the State."

Sec. 2. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the Department of Administration, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 729 **CHAPTER 511**

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING MEDICAL PRIVILEGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-27 is hereby amended by striking out "No fact communicated to or otherwise learned by any physician or surgeon or hospital or hospital employee who may have attended or examined the employee, or who may have been present at any examination, shall be privileged." as the same appears in lines 8 through 10 of such section and by substituting in lieu thereof the following: "Notwithstanding the provisions of G.S. 8-53, no fact communicated to or otherwise learned by any physician or surgeon or hospital or hospital employee who may have attended or examined the employee, or who may have been present at any examination, shall be privileged in any Workmen's Compensation case with respect to a claim pending for hearing before the Industrial Commission."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 1006 **CHAPTER 512**

AN ACT TO REORGANIZE THE MARINE FISHERIES COMMISSION AND THE COMMERCIAL AND SPORTS FISHERIES COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-287 as the same appears in the 1975 Cumulative Supplement of the 1974 Replacement Volume 3C of the General Statutes is amended as follows:

(1) By deleting the word "seven" in line 2 and inserting in lieu thereof the word "fifteen".

(2) By rewriting subdivision (6) to read as follows:

"(6) Ten at large, at least seven of whom shall at the time of appointment be residents of a legislative district which contains a county which is a part of the coastal area as that term is defined by G.S. 113A-103(2) and (3)."

(3) By inserting the word "current" in line 22 after the word "any" and by adding at the end of line 24 a new sentence to read as follows:

"The Governor shall have the authority to remove any member of the commission appointed after July 1, 1977."

(4) By deleting the second sentence of the second paragraph, which begins with the words "Two of the initial members".

Sec. 2. The seven current members of the Marine Fisheries Commission shall serve the remainder of the terms for which they were appointed. Of the eight new at-large members whose appointments are authorized by Section 1 of this act, four shall be appointed for terms ending July 1, 1979, and four shall be appointed for terms ending July 1, 1981. Thereafter each member shall be appointed for a term of six years.

Sec. 3. G.S. 143B-289 as the same appears in the 1975 Cumulative Supplement to Replacement Volume 3C of the General Statutes is amended by adding at the end thereof a new sentence to read as follows:

"At least three of the four quarterly meetings of the Marine Fisheries Commission shall be held in the coastal area as that area is defined in G.S. 113A-103."

Sec. 4. Part 18 of Article 7 of Chapter 143B of the General Statutes is hereby repealed, and a new Part 18A is hereby inserted in Article 7 to read as follows:

"Part 18A.

"Commercial and Sports Fisheries Advisory Committee.

"§ 143B-325.1. *Commercial and Sports Fisheries Advisory Committee - creation, powers and duties.*—There is hereby created the Commercial and Sports Fisheries Advisory Committee of the Department of Natural and Economic Resources. The Commercial and Sports Fisheries Advisory Committee shall have the following functions and duties:

(1) to study all matters and activities in connection with the conservation of marine and estuarine resources and make recommendations to the Secretary of Natural and Economic Resources;

(2) to act as a liaison group between sports and commercial fishermen, and others interested in the beneficial utilization of the marine and estuarine resources, and the Secretary of Natural and Economic Resources;

(3) the Advisory Committee shall consider and advise the Secretary of Natural and Economic Resources upon any matter the secretary may refer to it; and

(4) the Advisory Committee may originate its own studies on various matters within the scope of its interests and report on such matters to the public or to the agency or official appropriately concerned.

"§ 143B-325.2. *Commercial and Sports Fisheries Advisory Committee - members; chairman; selection; removal; compensation; quorum; services.*—The Commercial and Sports Fisheries Advisory Committee shall consist of nine members appointed by the Governor. The composition of the Advisory Committee shall be as follows: three members who are sports fishermen, three members who are commercial fishermen, and three members who are professional scientists with backgrounds relevant to the conservation of marine and estuarine resources.

The Governor shall designate one member of the Advisory Committee to serve as chairman at his pleasure.

The initial members of the Advisory Committee shall be appointed as follows: four members for two years and five members for four years. At the end of the respective terms of office of the initial members of the advisory committee, appointments shall be made for four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Advisory Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Advisory Committee from office.

Members of the Advisory Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Advisory Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Advisory Committee shall be supplied by the Secretary of Natural and Economic Resources.

"§ 143B-325.3. *Commercial and Sports Fisheries Advisory Committee - meetings.*—The Commercial and Sports Fisheries Advisory Committee shall meet at least semiannually and may hold special meetings at any time or place within the State at the call of the chairman or upon the written request of at least a majority of the members."

Sec. 5. The words "Commercial and Sports Fisheries Advisory Committee" shall be inserted in the General Statutes wherever the words "Commercial and Sports Fisheries Committee" appear.

Sec. 6. G.S. 143B-277(b) as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by deleting subdivision (5).

Sec. 7. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 8. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 1034 CHAPTER 513

AN ACT TO EXPAND THE MEMBERSHIP AND POWERS OF THE NORTH CAROLINA HISTORICAL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-63 is hereby amended as follows:

(a) In paragraph one, line two, delete the word "seven" and substitute therefor the word "eleven".

(b) Delete paragraph two in its entirety and substitute therefor the following:

"The members of the North Carolina Historical Commission shall include the members of the existing North Carolina Historical Commission who shall serve for a period equal to the remainder of their current terms on the commission, plus four additional appointees of the Governor, two of whose appointments shall expire March 31, 1979, and two of whose appointments shall expire March 31, 1981. At the end of the respective terms of office of the members, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Of the members, at least five shall have professional training or experience in the fields of archives, history, historic preservation, historic architecture, archaeology, or museum administration, including at least three currently involved in the teaching of history at the college or university level or in administering archives or historical collections or programs. Any appointment to fill a vacancy on the commission created by resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term."

Sec. 2. G.S. 143B-62(1) is hereby amended by renumbering subsections 143B-62(1) (a) through (h) as 143B-62(1) (c) through (j) and adding the following subsections:

"(a) To serve as a search committee to seek out, interview, and recommend to the Secretary of Cultural Resources one or more experienced and professionally trained historian(s) for the position of Director of the Division of Archives and History when a vacancy occurs, and to assist and cooperate with the secretary in periodic reviews of the performance of the director and the division;

(b) To assist and advise the Secretary of Cultural Resources and the Director of the Division of Archives and History in the development and implementation of plans and priorities for the State's historical programs;".

Sec. 3. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the Department of Cultural Resources, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 1094 CHAPTER 514

AN ACT TO AMEND THE DEFINITION OF "PUBLIC ENTERPRISE" RELATING TO CITIES AND COUNTIES TO INCLUDE PUBLIC TRANSPORTATION SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-274(6), as it appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3C of the General Statutes, is rewritten to read as follows:

"(6) Public transportation systems."

Sec. 2. G.S. 160A-311(5), as it appears in 1976 Replacement Volume 3D of the General Statutes, is rewritten to read as follows:

"(5) Public transportation systems;".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 1123 CHAPTER 515

AN ACT TO MAKE IT UNLAWFUL TO TAKE CLAMS ON OYSTER ROCKS BY USE OF RAKES OR TONGS OR ANY OTHER DEVICE WHICH WILL DISTURB OYSTERS; AND TO REQUIRE THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO POST OYSTER ROCKS TO FORBID THE TAKING OF CLAMS IN THE ABOVE-DESCRIBED MANNER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is hereby amended by adding a new Section 207 to read as follows:

"§ 113-207. *Clamming on posted oyster rocks forbidden; penalty.*—(a) The Department of Natural and Economic Resources shall post to the extent that funds are available oyster rocks or appropriate landing sites to forbid the taking of clams upon such rocks by use of rakes or tongs or any other device which will disturb or damage the oysters thereon. Within the meaning of this section,

oyster rocks shall be defined as those rocks producing oysters upon which the tide rises and falls.

(b) It shall be unlawful for any person to take clams on oyster rocks posted by the Department of Natural and Economic Resources by use of rakes, tongs, or any other device which will disturb or damage the oysters growing thereon. This act will not apply to the taking of clams by signing. A violation of this section shall constitute a misdemeanor, punishable by imprisonment not to exceed 30 days, or by a fine of one hundred dollars ($100.00), or by both such fine and imprisonment."

Sec. 2. Nothing herein contained shall be construed to require any additional appropriation.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 1174 CHAPTER 516

AN ACT TO PROVIDE FOR ONE REPRESENTATIVE FROM EACH CONGRESSIONAL DISTRICT ON THE SOCIAL SERVICES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 143B-154 as the same appears in the 1974 Replacement Volume 3C of the General Statutes is amended and rewritten to read as follows:

"The Social Services Commission of the Department of Human Resources shall consist of one member from each congressional district in the State, all of whom shall be appointed by the Governor for four-year terms.

The initial members of the commission shall be the appointed members of the current Social Services Commission who shall serve for the remainder of their current terms and four additional members appointed by the Governor for terms expiring April 1, 1981. Any appointment to fill a vacancy on the commission created by the resignation, dismissal, death, removal or disability of a member shall be for the balance of the unexpired term.

In the event that more than 11 congressional districts are established in the State, the Governor shall on July 1 following the establishment of such additional congressional districts appoint a member of the commission from that congressional district.

If on July 1, 1977, or at any time thereafter due to congressional redistricting, two or more members of the Social Services Commission shall reside in the same congressional district, then such members shall continue to serve as members of the commission for a period equal to the remainder of their unexpired terms, provided that upon the expiration of said term or terms the Governor shall fill such vacancy or vacancies in such a manner as to insure that as expeditiously as possible there is one member of the Social Services Commission who is a resident of each congressional district in the State."

Sec. 2. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the Department of Human Resources, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 1194 CHAPTER 517

AN ACT TO MODIFY THE PROVISIONS OF ARTICLE 4A of G.S. CHAPTER 160A, REGARDING THE PRORATION OF MUNICIPAL TAXES UPON ANNEXATION.

The General Assembly of North Carolina enacts:

Section 1. Unless otherwise required by context, all references in this act to sections of G.S. Chapter 160A refer to those sections as they appear in the 1976 Replacement Volume 3D of the General Statutes.

Sec. 2. G.S. 160A-24 is amended by striking the final four sentences thereof, which begin with the words "If territory is annexed", and inserting in lieu thereof the following: "Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-58.10."

Sec. 3. G.S. 160A-28 is amended by striking the final sentence thereof and inserting in lieu thereof the following: "Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-58.10."

Sec. 4. G.S. 160A-31(e) is amended by striking the second through sixth sentences thereof (leaving only the first and final sentences) and inserting in lieu thereof the following: "Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-58.10."

Sec. 5. G.S. 160A-37(f) is amended by striking the second through sixth sentences thereof (leaving only the first and final sentences) and inserting in lieu thereof the following: "Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-58.10."

Sec. 6. G.S. 160A-49(f) is amended by striking the second through fifth sentences thereof and inserting in lieu thereof the following: "Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-58.10."

G.S. 160A-49(f) is further amended by striking the eighth sentence thereof, which deals with the municipality obtaining property tax listing records from the county.

Sec. 7. G.S. 160A-58.3 is amended by striking the second through sixth sentences thereof (leaving only the first and final sentences) and inserting in lieu thereof the following: "Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-58.10."

Sec. 8. General Statutes Sections 160A-58.7 through 160A-58.9 are reserved for future codification purposes.

Sec. 9. G.S. Chapter 160A, Article 4A, is amended by adding a new Part 5, to read as follows:

"PART 5.

"Property Tax Liability of Newly Annexed Territory.

"§ 160A-58.10. *Tax of newly annexed territory.*—(a) Applicability of section. Real and personal property in territory annexed pursuant to this Article is subject to municipal taxes as provided in this section.

(b) Prorated taxes. Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to prorated municipal taxes levied for that fiscal year as provided in this subsection. The amount of municipal taxes that would have been due on the property had it been within the municipality for the full fiscal year shall be multiplied by the following fraction: the denominator shall be 12 and the numerator shall be the number of full calendar months remaining in the fiscal year, following the day on which the annexation becomes effective. The product of the multiplication is the amount of prorated taxes due. The lien for prorated taxes levied on a parcel of real property shall attach to the parcel taxed on the listing date, as provided in G.S. 105-285, immediately preceding the fiscal year in which the annexation becomes effective. The lien for prorated taxes levied on personal property shall attach on the same date to all real property of the taxpayer in the taxing unit, including the newly annexed territory. If the annexation becomes effective after June 30 and before September 2, the prorated taxes shall be due and payable on the first day of September of the fiscal year for which the taxes are levied. If the annexation becomes effective after September 1 and before the following July 1, the prorated taxes shall be due and payable on the first day of September of the next succeeding fiscal year. The prorated taxes are subject to collection and foreclosure in the same manner as other taxes levied for the fiscal year in which the prorated taxes become due.

(c) Taxes in subsequent fiscal years. In fiscal years subsequent to the fiscal year in which an annexation becomes effective, real and personal property in the newly annexed territory is subject to municipal taxes on the same basis as is the preexisting territory of the municipality.

(d) Transfer of tax records. For purposes of levying prorated taxes the municipality shall obtain from the county a record of property in the area being annexed that was listed for taxation on the January 1 immediately preceding the fiscal year for which the prorated taxes are levied. In addition, if the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed that was listed for taxation as of said January 1."

Sec. 10. If an annexation became or becomes effective after December 31, 1975, and before July 1, 1977, and newly annexed property was or is taxed under the procedures of G.S. 160A-24, G.S. 160A-31(e), G.S. 160A-37(f), G.S. 160A-49(f), or G.S. 160A-58.3, as those sections read immediately before the effective date of Chapter 576 of the 1975 Session Laws, that method of taxation is hereby validated. No person may be held liable under G.S. 105-380 or any

other statute because those procedures were followed rather than the procedures established by Chapter 576 of the 1975 Session Laws.

Sec. 11. This act becomes effective upon ratification. However, any annexation already adopted on or before July 3, 1977, may be implemented under the provisions of Chapter 576 of the 1975 Session Laws.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

S. B. 45 CHAPTER 518

AN ACT TO PERMIT A PERSON'S LIFE TO BE INSURED FOR THE BENEFIT OF HIS OR HER SPOUSE OR CHILDREN OR BOTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-205, as it appears in the 1975 Replacement Volume 2B, is amended by rewriting the last sentence to read as follows:

"A person may insure his or her own life for the sole use and benefit of his or her spouse, or children, or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse, or children, or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse, or children, or both, shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured."

Sec. 2. This act shall become effective 30 days after certification by the State Board of Elections that an amendment to the Constitution of North Carolina rewriting Article X, Section 5, to permit a person's life to be insured for the benefit of his or her spouse or children or both, has been approved by the people of the State.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

S. B. 83 CHAPTER 519

AN ACT TO AMEND G.S. 95-87 BY RAISING THE STATE MINIMUM WAGE TO TWO DOLLARS AND THIRTY CENTS PER HOUR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-87 as it appears in the 1975 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina is hereby amended on line 2 by deleting the words and figures "two dollars ($2.00) per hour" and inserting in lieu thereof the words and figures "two dollars and thirty cents ($2.30) per hour beginning July 1, 1977, and two dollars and fifty cents ($2.50) per hour beginning on the same day that the minimum wage as set by the Fair Labor Standards Act of 1938, as amended, equals or exceeds two dollars and fifty cents ($2.50) per hour."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

S. B. 408 **CHAPTER 520**

AN ACT TO REQUIRE INSURANCE COMPANIES TO FURNISH TO FIRE OFFICIALS INFORMATION RELATING TO INVESTIGATIONS OF PROPERTY FIRE LOSSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 69 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 69-7.1 and to read as follows:

"§ 69-7.1. *Insurance company to furnish information.*—(a) The chief of any municipal fire or police department, county fire marshal or sheriff, or special agent of the State Bureau of Investigation may request any insurance company investigating a fire loss of real or personal property to release any information in its possession relative to that loss. The company shall release the information and cooperate with any official authorized to request such information pursuant to this section. The information shall include, but is not limited to:

(1) any insurance policy relevant to a fire loss under investigation and any application for such a policy;

(2) policy premium payment records;

(3) history of previous claims made by the insured for fire loss;

(4) material relating to the investigation of the loss, including statements of any person, proof of loss, and any other relevant evidence.

(b) If an insurance company (or insurance agency) has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the company shall furnish the State Bureau of Investigation with all relevant material acquired during its investigation of the fire loss, cooperate with and take such action as may be requested of it by any law enforcement agency, and permit any person ordered by a court to inspect any of its records pertaining to the policy and the loss.

(c) In the absence of fraud or malice, no insurance company (or insurance agency), or person who furnishes information on its behalf, shall be liable for damages in a civil action or subject to criminal prosecution for any oral or written statement made or any other action that is necessary to supply information required pursuant to this section.

(d) The officials and departmental and agency personnel receiving any information furnished pursuant to this section shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

(e) Any official referred to in subsection (a) of this section may be required to testify as to any information in his possession regarding the fire loss of real or personal property in any civil action in which any person seeks recovery under a policy against an insurance company for the fire loss."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

S. B. 417

CHAPTER 521

AN ACT TO ALLOW WORKMEN'S COMPENSATION PAYMENTS IN CERTAIN CASES PENDING APPEAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-86 is amended so that the second sentence of the second paragraph shall read as follows:

"In case of an appeal from the decision of the commission, or of a certification by said commission of questions of law, to the Court of Appeals, said appeal or certification shall operate on a supersedeas except as provided in G.S. 97-86.1, and no employer shall be required to make payment of the award involved in said appeal or certification until the questions at issue therein shall have been fully determined in accordance with the provisions of this Article."

Sec. 2. G.S. 97-86.1 is enacted to read as follows:

"§ 97-86.1. *Payment of award pending appeal in certain cases.*—(a) When any appeal or certification to the Court of Appeals is pending, and it appears to the commission that any part of the award appealed from is not appealed by the issues raised by such appeal, the commission may, on action or of its own motion, render a judgment directing compliance with any portion of such award not affected by such appeal; or, if the only issue raised by such appeal is the amount of the average weekly wage, the commission shall, on motion of the claimant, direct the payment of such portion of the compensation payable under its award as is not in dispute, if any, pending final adjudication of the disputed portion thereof.

(b) In any claim under the provisions of this Chapter where it is conceded by all parties that the employee's claim is a compensable one and the amount is not disputed and where the only issue is which employer or employers, carrier or carriers are liable, the commission may, where an appeal from a hearing commissioner or the full commission is taken by one or more parties, order payment made to the employee pending outcome of the case on appeal. The order of payment shall contain the provision that if the employer or carrier ordered to pay is not ultimately liable for the amount paid, the employer or carrier will be reimbursed by the employer or carrier ultimately held liable.

(c) No payment made pursuant to the provisions of this section shall in any manner operate as an admission of liability or estoppel to deny liability by an employer or carrier.

(d) In any claim under the provisions of this Chapter wherein one employer or carrier has made payments to the employee or his dependents pending a final disposition of the claim and it is determined that different or additional employers or carriers are liable, the commission may order any employers or carriers determined liable to make repayment in full or in part to any employer or carrier which has made payments to the employee or his dependents."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 204 **CHAPTER 522**

AN ACT PROVIDING FOR THE ADOPTION AND USE OF TESTS TO ASSURE THAT HIGH SCHOOL GRADUATES POSSESS SKILLS AND KNOWLEDGE NECESSARY TO FUNCTION IN SOCIETY.

The General Assembly of North Carolina enacts:

Section 1. Purpose. The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic high schools supervised by the State Board of Education pursuant to the provisions of Article 32 of Chapter 115 of the General Statutes possess those skills and that knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship. This act has three purposes: (a) to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society, (b) to provide a means of identifying strengths and weaknesses in the education process, and (c) to establish additional means for making the education system accountable to the public for results.

Sec. 2. Competency Test Commission. (a) The Governor shall appoint a Competency Test Commission on or before July 1, 1977, which shall be composed of 15 members who shall hold office for four years or until their successors are appointed. Any vacancy on the Competency Test Commission shall be filled by the Governor for the unexpired term. Five members of the Competency Test Commission shall be persons serving as teachers or principals in high schools; five shall be citizens of the State interested in education; two shall be professional educators from the faculties of institutions of higher education in the State; two shall be persons competent in the field of psychological measurement; and one shall be the superintendent of a local administrative unit in the State. The members shall be entitled to compensation for each day spent on the work of the Competency Test Commission as approved by the State Board of Education and receive reimbursement for travel and subsistence expenses incurred in the performance of their duties at rates specified in G.S. 138-5 or G.S. 138-6, whichever is applicable to the individual member. All currently employed teachers serving on the Commission shall be entitled to receive full pay for each day spent on the work of the Commission without any reduction in salary for a substitute teacher's pay.

(b) The Superintendent of Public Instruction, or his designee, shall serve as an ex officio, nonvoting member of the Competency Test Commission.

Sec. 3. Duties of the Competency Test Commission. (a) No later than January 1, 1978, the Competency Test Commission shall recommend to the State Board of Education tests or other measuring devices that may be used to measure those skills and that knowledge thought necessary to enable an individual to function independently and successfully in assuming the responsibilities of citizenship.

(b) After tests have been approved by the State Board of Education and administered, for informational and research purposes only, to all eleventh grade students in the public and nonpublic high schools of the State during the spring semester of 1978, the Competency Test Commission shall review the summaries of these test results.

(c) No later than July 1, 1978, the Competency Test Commission shall provide the State Board of Education with written recommendations as to the adoption of the tests that were administered for research and informational purposes and as to the minimum levels of performance that it believes should be expected of graduating high school seniors.

(d) After the adoption of tests and minimum graduation standards by the State Board of Education, the tests shall be administered annually to all eleventh grade students in the public schools beginning in the fall of 1978. Students who fail to attain the required minimum standard for graduation in the eleventh grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the eleventh grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.

(e) The Competency Test Commission shall annually advise the State Board of Education on matters pertaining to the use of high school graduation competency tests.

Sec. 4. Duties of the State Superintendent of Public Instruction. The State Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for administering the Competency Testing Program provided for by this act and for providing necessary staff services to the Competency Test Commission.

Sec. 5. Duties of the State Board of Education. The State Board of Education shall adopt tests, graduation standards, and policies and procedures for the implementation of this act.

Sec. 6. Duties of local school boards. Local school boards shall cooperate with the State Board of Education in carrying out the policies and guidelines adopted by the State Board of Education for implementing this act.

Sec. 7. Public records exception. Any written material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this act shall not be considered a public record within the meaning of G.S. 132-1 and shall not be disseminated or otherwise made available to the public by any member of the State Board of Education, any employee of the State Board of Education, the State Superintendent of Public Instruction, any employee of the Department of Public Instruction, any member of a local board of education, any employee of a local board of education, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g.

Sec. 8. Provisions for nonpublic schools. The State Board of Education may require the implementation of the testing program contemplated by this act in nonpublic schools supervised by it pursuant to the provisions of Article 32 of Chapter 115 of the General Statutes.

Sec. 9. This program and the provisions of this act shall be implemented to the extent appropriations are provided by the General Assembly but nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Public Instruction.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1977.

H. B. 1135 **CHAPTER 523**

AN ACT TO AMEND ARTICLE 26 OF CHAPTER 116 RELATING TO A SELF-INSURANCE PROGRAM FOR HEALTH CARE LIABILITY CLAIMS.

Whereas, the General Assembly has authorized the creation of a self-insurance program for liability claims against health care practitioners; and

Whereas, such program has not been implemented because of the unavailability of excess liability coverage or funding; and

Whereas, the possibility of extraordinarily high judgments is a contingency that must be anticipated and provided for; and

Whereas, the General Assembly recognizes that the quality of education offered by the medical centers of The University and the quality of the health care rendered to patients by said medical centers and hospital staff members are all matters that affect the health of the people of the State of North Carolina; and

Whereas, the authorization of the creation of a basic coverage self-insurance fund by The University with funds derived by it from sources other than general tax revenues of the State, and the providing of loans from funds other than general tax revenues of the State to said fund by The University, when and if necessary to pay health care malpractice claims, is for a public purpose and within the province of the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. On line 1 of G.S. 116-222 change "Records held by the fund" to read "Records pertaining to the liability insurance program".

Sec. 2. Article 26 of Chapter 116 is hereby amended by adding the following new sections:

"§ 116-220.1. *Funding of self-insurance program.*—(a) If the board elects to establish a self-insurance trust fund, the initial contribution to the fund shall be determined by an independent actuary but shall be no less than three hundred thousand dollars ($300,000). Annual contributions to said fund shall be made in an amount to be determined each year by the Trust Fund Council upon the advice of an independent actuary and shall include amounts necessary to pay all costs of administration of the self-insurance program and claims adjustment including litigation in addition to amounts necessary to pay claims. Contributions shall be no less than one hundred fifty percent (150%) of the amounts actually paid each year on medical malpractice claims until such time as the Trust Fund Council, with the advice of an independent actuary and the approval of the Board of Governors, determines that an annual contribution in a lesser amount will not impair the adequacy of the fund to satisfy existing and potential health care malpractice claims for a period of one year.

(b) Claims certified to be paid from the fund shall be paid in the order of award or settlement. In the event that the fund created hereunder shall at any time have insufficient funds to assure that both existing and future claims will be paid, the board is hereby authorized to borrow necessary amounts up to five million dollars ($5,000,000) per established self-insurance trust fund account to replenish the fund. The board shall maintain funds in each self-insurance trust at no less than one hundred thousand dollars ($100,000) at all times.

(c) Funds borrowed by the board to replenish the trust fund account may be secured by pledging noncapital assets of the members. Members shall mean

those entities, agencies, departments or divisions of The University which directly contribute funds to the self-insurance trust. In no event shall individual health care providers be deemed members for the purposes of this section.

(d) Obligations issued under the provisions of this Article shall not be deemed to constitute a debt, liability or obligation of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision but shall be payable solely from the revenues or assets of the members. Each obligation issued under this Article shall contain on the face thereof a statement to the effect that The University shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

"§ 116-220.2. *Termination of fund.*—Any fund created hereunder may be terminated by the Board of Governors upon their determination that other satisfactory and adequate arrangements have been made to assure that both existing and future health care malpractice claims or judgments against the participants in the self-insurance program will be paid and satisfied. Upon the termination of any fund pursuant to this section, the full amount remaining in such fund upon termination less any outstanding indebtedness shall promptly be repaid to The University and allocated among the participating entities according to their respective contributions as determined by the Board of Governors.

"§ 116-223. *Further action.*—The Board of Governors of The University of North Carolina is hereby authorized to take all action necessary to effectuate the purposes and provisions of this Article."

Sec. 3. This act shall become effective June 1, 1977.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

H. B. 1275 CHAPTER 524

AN ACT TO REPEAL CHAPTER 1073 OF THE 1951 SESSION LAWS RELATING TO THE PUBLICATION OF CERTAIN RECORDS IN SAMPSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1073 of the 1951 Session Laws of the North Carolina General Assembly, entitled "An Act Relating to Publication of Certain Records in Sampson County", is hereby repealed.

Sec. 2. No records shall be published on or before July 1, 1977, or annually thereafter as required under the act hereby repealed, except as otherwise provided or required by the general laws of this State.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

H. B. 1284 **CHAPTER 525**

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE MEMBERS OF THE BOARD OF EDUCATION OF ONSLOW COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The County Board of Education for Onslow County shall consist of seven members, to be elected by the voters of the county as herein provided, who shall serve for a term of four years. The term of office of each member shall begin on the first Monday in December, next succeeding his election, and shall continue until a successor has been elected and qualified.

Sec. 2. Members shall reside in and represent the several townships of Onslow County, one member being apportioned to each township. In the primary election to be held in Onslow County in 1978, there shall be nominated by each political party in the party primaries at the same time and in the same general manner as that in which other county officers are nominated three candidates for nomination as members of the Board of Education of Onslow County. The nominees residing in the Stump Sound Township, Swansboro Township and White Oak Township who shall receive the highest number of votes in the respective primaries shall be declared nominated. The names of the persons so nominated by each political party shall be placed on the official county ballots of Onslow County, and shall be voted upon by the qualified voters of the county at large in the general election of 1978.

Sec. 3. In the primary election to be held in 1980, there shall be nominated by each political party in the party primaries at the same time and in the same general manner as that in which other county officers are nominated four candidates for nomination as members of the Board of Education of Onslow County. The nominees residing in Jacksonville Township and Richlands Township who shall receive the highest number of votes in the respective primaries shall be declared nominated. The two nominees in the respective party primaries receiving the next highest number of votes, regardless of which township in which he resides, shall be declared as nominated. The names of the persons so nominated by each political party shall be placed on the official county ballots of Onslow County, and shall be voted upon by the qualified voters of the county at large in the general election of 1980, and quadrennially thereafter, from the same townships or at large, members of the board of education who are candidates to succeed the members whose terms shall expire shall be elected for a term of four years.

Sec. 4. Vacancies in the membership of the board of education, for any cause, shall be filled immediately by the county executive committee of the political party of the member causing such vacancy. The person appointed shall serve for the unexpired term and shall be a resident of the township in which such vacancy occurs.

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

H. B. 1294 CHAPTER 526

AN ACT TO PROHIBIT HUNTING IN SAM BROWN PARK IN ALLEGHANY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful at any time to take or attempt to take by any means whatsoever any game or nongame animal or bird in Sam Brown Park in Alleghany County.

Sec. 2. Violation of this act shall be a misdemeanor and punishable as provided in G.S. 113-120.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

H. B. 1295 CHAPTER 527

AN ACT RELATING TO THE GAME OF "BINGO" IN CHOWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be lawful to play or operate raffles and the game of "bingo" in Chowan County in connection with fairs, conventions, dinners, bazaars, or exhibitions sponsored by church, religious, civic, charitable, social, patriotic, fraternal or trade associations or by public or private schools or education institutions of the county.

Sec. 2. It shall be lawful for any church, school, religious, patriotic or fraternal club or association in Chowan County to play or operate the game of "bingo" in the church, school, club or organization clubhouse or meeting rooms.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

H. B. 489 CHAPTER 528

AN ACT TO AMEND ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE MUNICIPALITIES OWNING OR OPERATING ELECTRIC SYSTEMS AND JOINT AGENCIES COMPOSED OF SUCH MUNICIPALITIES TO JOINTLY OR SEVERALLY OWN, OPERATE AND MAINTAIN ELECTRIC GENERATION AND TRANSMISSION FACILITIES WITH ANY PERSON, FIRM, ASSOCIATION OR CORPORATION, PUBLIC OR PRIVATE, ENGAGED IN THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC POWER AND ENERGY FOR RESALE WITHIN THIS STATE OR ANY CONTIGUOUS STATE, AND TO ISSUE REVENUE BONDS TO FINANCE THE COST THEREOF, SUBJECT TO THE APPROVAL OF THE ELECTORATE.

The General Assembly of North Carolina enacts:

Section 1. Article V of the Constitution of North Carolina is hereby amended by adding a new section to be designated as Section 10 and to read as follows:

"Sec. 10. Joint ownership of generation and transmission facilities. In addition to other powers conferred upon them by law, municipalities owning or

operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, 'a unit of municipal government') may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, 'a co-owner') within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts, omissions or obligations of any co-owner, nor shall any money or property of any unit of municipal government be credited or otherwise applied to the account of any co-owner or be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner."

Sec. 2. The Constitutional amendment set forth in Section 1 shall be submitted to the qualified voters of the State for their ratification or rejection at the next State primary, general or other statewide election following enactment of this bill. At such election the State Board of Elections shall cause to be printed the following:

"FOR Constitutional amendment to permit municipalities owning or operating electric generation, transmission or distribution facilities and joint agencies composed of such municipalities to own, operate and maintain generation and transmission facilities with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, 'a co-owner') within this State or any state contiguous to this State, and to issue electric revenue bonds to finance the cost of the ownership share of such municipalities or joint agencies, such bonds to be secured by and payable only from the electric revenues of such municipalities or joint agencies and providing that no money or property of such municipalities or joint agencies shall be credited or applied to the account of any such co-owner.

"AGAINST Constitutional amendment to permit municipalities owning or operating electric generation, transmission or distribution facilities and joint agencies composed of such municipalities to own, operate and maintain generation and transmission facilities with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, 'a co-owner') within this State or any state contiguous to this State, and to issue electric revenue bonds to finance the cost of the ownership share of such municipalities or joint agencies, such bonds to be secured by and payable only from the electric revenues of such municipalities or joint agencies and providing

that no money or property of such municipalities or joint agencies shall be credited or applied to the account of any such co-owner."

Those qualified voters favoring the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. All laws and clauses of laws in conflict with this act are repealed.

Sec. 5. If a statewide election is held prior to the general election to be held in November 1978, the State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding said election and registration therefor, the same to be paid out of the Contingency and Emergency Fund, unless the payment of such expenses is otherwise expressly provided for.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

S. B. 446

CHAPTER 529

AN ACT TO AMEND THE TORT CLAIMS ACT TO PROVIDE COVERAGE FOR NEGLIGENCE AND TO RAISE THE LIMITS TO ONE HUNDRED THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-291 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by striking on line 6 the words "a negligent act" and by inserting in lieu thereof, the words "the negligence".

Sec. 2. G.S. 143-291 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by deleting the words and figures "thirty thousand dollars ($30,000)" and inserting in lieu thereof the words and figures "one hundred thousand dollars ($100,000) on account of injury and damage to any one person".

Sec. 3. This act shall become effective July 1, 1979, and shall apply only to those claims based upon negligence occurring thereafter.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

S. B. 793 **CHAPTER 530**

AN ACT TO AMEND CHAPTER 415, SESSION LAWS OF 1977, RELATING TO THE CIVIL SERVICE COMMISSION OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 415, Session Laws of 1977, is amended by inserting in Section 2, after the word "complains" in line 4 thereof, the following ", but not before such member shall have exhausted his or her remedy provided by the grievance procedures established by ordinance of the city; provided that such grievance procedure shall be concluded within 30 days. If the grievance procedures are not concluded within 30 days, then such member may proceed as provided herein."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.

H. B. 399 **CHAPTER 531**

AN ACT TO ESTABLISH THE NORTH CAROLINA CODE OFFICIALS QUALIFICATION BOARD AND TO PROVIDE FOR MORE EVEN ENFORCEMENT OF THE STATE BUILDING CODE THROUGHOUT NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new Article to be numbered 9B and to read as follows:

"ARTICLE 9B.

"North Carolina Code Officials Qualification Board.

"§ 143-151.5. *Definitions.*—(a) As used in this Article, unless the context otherwise requires:

(1) 'Board' means the North Carolina Code Officials Qualification Board.

(2) 'Code' means the North Carolina State Building Code and related local building rules and regulations approved by the Building Code Council heretofore or hereinafter enacted, adopted or approved pursuant to G.S. 143-138.

(3) 'Code enforcement' means the examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and components thereof as an employee of the State or local government, except an employee of the State Department of Labor engaged in the administration and enforcement of those sections of the code which pertain to boilers and elevators, to assure compliance with the State Building Code and related local building rules and regulations.

(4) 'Local inspection department' means the agency or agencies of local government with authority to make inspections of buildings and to enforce the code and other laws, ordinances, and regulations enacted by the State and the local government which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings.

(5) 'Qualified code enforcement official' means a person qualified under this Article to engage in the practice of code enforcement.

(b) For purposes of this Article, the population of a city or county shall be determined according to the most current federal census, unless otherwise specified.

"§ 143-151.6. *North Carolina Code Officials Qualification Board established; members; terms; vacancies.*—(a) There is hereby established the North Carolina Code Officials Qualification Board in the Department of Insurance. The board shall be composed of 20 members appointed as follows:

(1) one member who is a city or county manager;
(2) two members, one of whom is an elected official representing a city over 5,000 population and one of whom is an elected official representing a city under 5,000 population;
(3) two members, one of whom is an elected official representing a county over 40,000 population and one of whom is an elected official representing a county under 40,000 population;
(4) two members serving as building officials with the responsibility for administering building, plumbing, electrical and heating codes, one of whom serves a county and one of whom serves a city;
(5) one member who is a registered architect;
(6) one member who is a registered engineer;
(7) two members who are licensed general contractors, at least one of whom specializes in residential construction;
(8) one member who is a licensed electrical contractor;
(9) one member who is a licensed plumbing or heating contractor;
(10) one member selected from the faculty of the North Carolina State University School of Engineering and one member selected from the faculty of the School of Engineering of the North Carolina Agricultural and Technical State University;
(11) one member selected from the faculty of the Institute of Government;
(12) one member selected from the Department of Community Colleges;
(13) one member selected from the Division of Engineering and Building Codes in the Department of Insurance; and,
(14) two members who are citizens of the State.

The various categories shall be appointed as follows: (1), (2), (3), and (14) by the Governor; (4), (5), and (6) by the Lieutenant Governor; (7), (8), and (9) by the Speaker of the House of Representatives; (10) by the Deans of the respective schools of engineering of the named universities; (11) by the Director of the Institute of Government; (12) by the President of the Division of Community Colleges; and (13) by the Commissioner of Insurance.

(b) The members shall be appointed for staggered terms and the initial appointments shall be made prior to September 1, 1977, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: the members from subdivisions (1), (6) and (10) of subsection (a), and one member from subdivision (3).

For the terms of two years: the member from subdivision (11) of subsection (a), one member from subdivision (2), one member from subdivision (4), one member from subdivision (7), and one member from subdivision (14).

For the terms of three years: the members from subdivisions (8) and (12) of subsection (a), one member from subdivision (2), one member from subdivision (4), and one member from subdivision (14).

For the terms of four years: the members from subdivision (5), (9) and (13) of subsection (a), one member from subdivision (3), and one member from subdivision (7).

Thereafter, as the term of each member expires, his successor shall be appointed for a term of four years. Notwithstanding the appointments for a term of years, each member shall serve at the will of the Governor.

Members of the board who are public officers shall serve ex officio and shall perform their duties on the board in addition to the duties of their office.

(c) Vacancies in the board occurring for any reason shall be filled for the unexpired term by the person making the appointment.

"§ 143-151.7. *Compensation.*—Members of the board who are State officers or employees shall receive no salary for serving on the board, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the board who are full-time salaried public officers or employees other than State officers or employees shall receive no salary for serving on the board, but shall be reimbursed for subsistence and travel expenses in accordance with G.S. 138-5(a)(2) and (3). All other members of the board shall receive compensation and reimbursement for expenses in accordance with G.S. 138-5(a).

"§ 143-151.8. *Chairman; vice-chairman; other officers; meetings; reports.*—(a) The members of the board shall select one of their members as chairman upon its creation, and shall select the chairman each July 1 thereafter.

(b) The board shall select a vice-chairman and such other officers and committee chairmen from among its members, as it deems desirable, at the first regular meeting of the board after its creation and at the first regular meeting after July 1 of each year thereafter. Provided, nothing in this subsection shall prevent the creation or abolition of committees or offices of the board, other than the office of vice-chairman, as the need may arise at any time during the year.

(c) The board shall hold at least four regular meetings per year upon the call of the chairman. Special meetings shall be held upon the call of the chairman or the vice-chairman, or upon the written request of four members of the board.

(d) The activities and recommendations of the board with respect to standards for code officials training and certification shall be set forth in regular and special reports made by the board. Additionally, the board shall present special reports and recommendations to the Governor or the General Assembly, or both, as the need may arise or as the Governor or the General Assembly may request.

"§ 143-151.9. *Powers.*—In addition to powers conferred upon the board elsewhere in this Article, the board shall have the power to:

(1) promulgate rules and regulations for the administration of this Article including the authority to require the submission of reports and information by State agencies, local inspection departments, and local governing bodies within this State relating to the employment, education and training of code enforcement officials;

(2) establish minimum standards for employment as a code enforcement official: (i) in probationary or temporary status, and (ii) in permanent positions;

(3) certify persons as being qualified under the provisions of this Article to be code enforcement officials;

(4) consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges,

community colleges, techical institutes, and other institutions concerning the development of code enforcement training schools and programs or courses of instruction;

(5) establish minimum standards and levels of education or equivalent experience for all code enforcement instructors, teachers or professors;

(6) conduct and encourage research by public and private agencies which shall be designed to improve education and training in the administration of code enforcement;

(7) adopt and amend bylaws, consistent with law, for its internal management and control; appoint such advisory committees as it may deem necessary; and enter into contracts and do such other things as may be necessary and incidental to the exercise of its authority pursuant to this Article; and,

(8) make recommendations concerning any matters within its purview pursuant to this Article.

"§ 143-151.10. *Required standards.*—(a) The board shall provide by regulation that on and after July 1, 1979, no person may engage in code enforcement pursuant to this Article unless he possesses one of the following types of certificates, currently valid, issued by the board attesting to his qualifications to hold such position: (i) a standard certificate; (ii) a limited certificate provided for in subsection (c); or (iii) a probationary certificate, valid for one year only, provided for in subsection (d). To obtain a standard certificate, a person must pass an examination, as prescribed by the board, which is based on the North Carolina State Building Code and administrative procedures required to enforce the code. The board shall issue a standard certificate of qualification to each person who successfully completes the examination authorizing the person named therein to practice as a qualified code enforcement official in North Carolina. The certificate of qualification shall bear the signatures of the chairman and secretary of the board.

(b) The board shall establish by regulation appropriate performance levels, including designation of territory and type and size of buildings and structures, and classes of qualified code enforcement officials and may develop examinations and prescribe course of instruction for the various levels and classes. The certificate of qualification shall set forth the performance level for which the code enforcement official is qualified. The board may by regulation limit the jurisdiction of code enforcement officials based on the performance level for which they have qualified; provided, a person who receives a certificate of qualification at the highest performance level established by the board shall be entitled to serve anywhere in North Carolina.

(c) A code enforcement official holding office as of the date specified in this subsection for the county or municipality by which he is employed, shall not be required to possess a standard certificate as a condition of tenure or continued employment but shall be required to complete such in-service training as may be prescribed by the board. At the earliest practicable date, such official shall receive from the board a limited certificate qualifying him to engage in code enforcement at the performance level and within the governmental jurisdiction in which he is employed. The limited certificate shall be valid only as an authorization for the official to continue in the position held on the date of ratification of this act.

An official holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance by the board of a

standard certificate or probationary certificate appropriate for such new position.

(d) The board may provide for the issuance of probationary or temporary certificates valid for one year to any code enforcement official newly employed or newly promoted who lacks the qualifications prescribed by the board as prerequisite to applying for a standard certificate under subsection (a). No official may have his probationary or temporary certificate extended beyond one year by renewal or otherwise. The board may by regulation provide for appropriate levels of probationary or temporary certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the board may deem necessary to protect the public safety and health.

(e) The board shall, without requiring an examination, issue a standard certificate to any person who is currently certified as a county electrical inspector pursuant to G.S. 153A-351. The certificate issued by the board shall authorize the person to serve at the electrical inspector level approved by the Commissioner of Insurance in G.S. 153A-351.

(f) The board shall issue a standard certificate to any person who is currently licensed to practice as a(n):

(1) architect, registered pursuant to G.S. Chapter 83;

(2) general contractor, licensed pursuant to Article 1 of G.S. Chapter 87;

(3) plumbing or heating contractor, licensed pursuant to Article 2 of G.S. Chapter 87;

(4) electrical contractor, licensed pursuant to Article 4 of G.S. Chapter 87; or,

(5) professional engineer, registered pursuant to G.S. Chapter 89;

provided the person successfully completes a short course, as prescribed by the board, relating to the State Building Code regulations and code enforcement administration. The standard certificate shall authorize the person to practice as a qualified code enforcement official at the performance level determined by the board, based on the type of license or registration held in any profession specified above.

"§ 143-151.11. *Comity.*—The board may, without requiring an examination, grant a standard certificate as a qualified code enforcement official to any person who, at the time of application, is certified as a qualified code enforcement official by a similar board of another state, district or territory where standards are acceptable to the board and not lower than those required by this Article. A fee of not more than twenty dollars ($20.00), as determined by the board, must be paid by the applicant to the board for the issuance of a certificate under the provisions of this section. The provisions of G.S. 143-151.13(b) relating to renewal fees and late renewals shall apply to every person granted a standard certificate in accordance with this section.

"§ 143-151.12. *Return of certificate to board; reissuance by board.*—A certificate issued by the board pursuant to this Article shall remain valid only so long as the person certified is employed by the State of North Carolina or any political subdivision thereof as a code enforcement official. When the person certified leaves such employment for any reason, he shall return the certificate to the board. If the person subsequently obtains employment as a code enforcement official in any governmental jurisdiction described above, the

board shall reissue the certificate to him. The provisions of G.S. 143-151.13(b) relating to renewal fees and late renewals shall apply, if appropriate. The provisions of G.S. 143-151.13(c) shall not apply. The provisions of this section shall not affect the board's power to suspend or revoke any certificate pursuant to G.S. 143-151.14.

"§ 143-151.13. *Certification fees; renewal of certificates.*—(a) The board shall establish a schedule of fees to be paid by each applicant for certification as a qualified code enforcement official. Such fee shall not exceed twenty dollars ($20.00) for each applicant.

(b) A certificate, other than a probationary certificate, as a qualified code enforcement official issued pursuant to the provisions of this Article must be renewed annually on or before the first day of July. Each application for renewal must be accompanied by a renewal fee to be determined by the board, but not to exceed ten dollars ($10.00). The board is authorized to charge an extra two dollar ($2.00) late renewal fee for renewals made after the first day of July each year.

(c) Any person who fails to renew his certificate for a period of two consecutive years may be required by the board to take and pass the same examination as unlicensed applicants before allowing such person to renew his certificate.

"§ 143-151.14. *Grounds for disciplinary actions; investigation; administrative procedures.*—(a) The board shall have the power to suspend, revoke or refuse to grant any certificate issued under the provisions of this Article to any person who:

(1) has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State;
(2) has obtained certification through fraud, deceit, or perjury;
(3) has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the State Building Code;
(4) has defrauded the public or attempted to do so;
(5) has affixed his signature to a report of inspection or other instrument of service if no inspection has been made by him or under his immediate and responsible direction; or,
(6) has been guilty of willful misconduct, gross negligence or gross incompetence.

(b) The board may investigate the actions of any qualified code enforcement official or applicant upon the verified complaint in writing of any person alleging a violation of subsection (a). The board may suspend or revoke the certification of any qualified code enforcement official and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) as grounds for disciplinary action.

(c) The board shall establish administrative rules and regulations for actions under this section which shall be in accordance with the requirements of G.S. Chapter 150A. Such rules and regulations shall include provisions for the removal of suspensions, the reissuance of certificates, and the conditions for these actions.

"§ 143-151.15. *Violations; penalty; injunction.*—On and after July 1, 1979, it shall be unlawful for any person to represent himself as a qualified code enforcement official who does not hold a currently valid certificate of

qualification issued by the board. Any person violating any of the provisions of this Article shall be guilty of a misdemeanor and punishable in the discretion of the court. The board is authorized to apply to any judge of the superior court for an injunction in order to prevent any violation or threatened violation of the provisions of this Article.

"§ 143-151.16. *Administration.*—(a) The Division of Engineering and Building Codes in the Department of Insurance shall provide clerical and other staff services required by the board, and shall administer and enforce all provisions of this Article and all rules and regulations promulgated pursuant to this Article, subject to the direction of the board, except as delegated by this Article to local units of government, other State agencies, corporations, or individuals.

(b) A certified copy of this Article and all rules and regulations promulgated pursuant thereto shall be filed with the Attorney General in accordance with Article 5 of G.S. Chapter 150A. The board shall have printed additional copies of this Article and all rules and regulations promulgated pursuant thereto which shall be available to the public at a price determined by the board.

(c) The board shall keep current a record of the names and addresses of all qualified code enforcement officials and additional personal data as the board deems necessary. The board annually shall publish a list of all currently certified code enforcement officials.

(d) Each certificate issued by the board shall contain such identifying information as the board requires.

(e) The board shall issue a duplicate certificate to practice as a qualified code enforcement official in place of one which has been lost, destroyed, or mutilated upon proper application and payment of a fee to be determined by the board.

"§ 143-151.17. *Donations and appropriations.*—(a) In addition to appropriations made by the General Assembly, the board may accept for any of its purposes and functions under this Article any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize, disburse and transfer the same, subject to the approval of the Council of State. Any arrangements pursuant to this section shall be detailed in the next regular report of the board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received by the board pursuant to this section shall be deposited in the State treasury to the account of the board.

(b) The board may provide grants as a reimbursement for actual expenses incurred by the State or political subdivision thereof for the provisions of training programs of officials from other jurisdictions within the State. The board, by rules and regulations, shall provide for the administration of the grant program authorized herein. In promulgating such rules, the board shall promote the most efficient and economical program of code enforcement training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication."

Sec. 2. G.S. 153A-351, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by redesignating subsection (b) as subsection (c) and adding new language at the end of newly designated subsection (c) to read as follows:

"The provisions of this subsection shall become void and ineffective on such date as the North Carolina Code Officials Qualification Board certifies to the Secretary of State that it has placed in effect a certification system for electrical inspectors pursuant to its authority granted by Article 9B of Chapter 143 of the General Statutes."

Sec. 3. G.S. 153A-351, as amended in Section 2 of this act, is further amended by inserting a new subsection (b) to read as follows:

"(b) Every county shall perform the duties and responsibilities set forth in G.S. 153A-352 either by: (1) creating its own inspection department; (2) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 153A-353 or Part 1 of Article 20 of G.S. Chapter 160A; or, (3) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of G.S. Chapter 160A. Such action shall be taken no later than the applicable date in the schedule below, according to the county's population as published in the 1970 U. S. Census:

Counties over 75,000 population - July 1, 1979
Counties between 50,001 and 75,000 - July 1, 1981
Counties between 25,001 and 50,000 - July 1, 1983
Counties 25,000 and under - July 1, 1985.

In the event that any county shall fail to provide inspection services by the date specified above or shall cease to provide such services at any time thereafter, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by his department or through an arrangement with other units of government. In either event, the commissioner shall have and may exercise within the county's jurisdiction all powers made available to the board of county commissioners with respect to building inspection under Part 4 of Article 18 of this Chapter and Part 1 of Article 20 of G.S. Chapter 160A. Whenever the commissioner has intervened in this manner, the county may assume provision of inspection services only after giving the commissioner two years' written notice of its intention to do so; provided, however, that the commissioner may waive this requirement or permit assumption at an earlier date if he finds that such earlier assumption will not unduly interfere with arrangements he has made for the provision of those services."

Sec. 4. Chapter 153A of the General Statutes is amended by inserting a new section to be numbered G.S. 153A-351.1 and to read as follows:

"§ 153A-351.1. *Qualifications of inspectors.*—On and after the applicable date set forth in the schedule in G.S. 153A-351, no county shall employ an inspector to enforce the State Building Code as a member of a county or joint inspection department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position: (a) a probationary certificate, valid for one year only; (b) a standard certificate; or (c) a limited certificate, which shall be valid only as an authorization for him to continue in the position held on the date specified in G.S. 143-151.10(c) and which shall become invalid if he does not successfully complete in-service training prescribed by the qualification board within the period specified in G.S. 143-151.10(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher

level certificate only upon issuance by the board of a standard certificate or probationary certificate appropriate for such new position."

Sec. 5. G.S. 160A-411, as it appears in 1976 Replacement Volume 3D, is amended on line two by changing the word "shall" to the word "may"; and, is further amended by adding the following new language at the end of the section:

"Every city shall perform the duties and responsibilities set forth in G.S. 160A-412 either by: (1) creating its own inspection department; (2) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 160A-413 or Part 1 of Article 20 of this Chapter; (3) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of this Chapter; or (4) arranging for the county in which it is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160A-413 and G.S. 160A-360. Such action shall be taken no later than the applicable date in the schedule below, according to the city's population as published in the 1970 U.S. Census:

Cities over 75,000 population - July 1, 1979
Cities between 50,001 and 75,000 - July 1, 1981
Cities between 25,001 and 50,000 - July 1, 1983
Cities 25,000 and under - July 1, 1985.

In the event that any city shall fail to provide inspection services by the date specified above or shall cease to provide such services at any time thereafter, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by his department or through an arrangement with other units of government. In either event, the commissioner shall have and may exercise within the city's jurisdiction all powers made available to the city council with respect to building inspection under Part 5 of Article 19, and Part 1 of Article 20 of this Chapter. Whenever the commissioner has intervened in this manner, the city may assume provision of inspection services only after giving the commissioner two years' written notice of its intention to do so; provided, however, that the commissioner may waive this requirement or permit assumption at an earlier date if he finds that such earlier assumption will not unduly interfere with arrangements he has made for the provision of those services."

Sec. 6. Chapter 160A of the General Statutes is amended by inserting a new section to be numbered G.S. 160A-411.1 and to read as follows:

"§ 160A-411.1. *Qualifications of inspectors.*—On and after the applicable date set forth in the schedule in G.S. 160A-411, no city shall employ an inspector to enforce the State Building Code as a member of a city or joint inspection department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position: (a) a probationary certificate, valid for one year only; (b) a standard certificate; or (c) a limited certificate which shall be valid only as an authorization for him to continue in the position held on the date specified in G.S. 143-151.10(c) and which shall become invalid if he does not successfully complete in-service training specified by the qualification board within the period specified in G.S. 143-151.10(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the board of a standard certificate or probationary certificate appropriate for such new position."

Sec. 7. The provisions of this act shall not be applicable to municipalities of less than 25,000 population or to counties of less than 75,000 population according to the 1970 U.S. Census, and shall not be applicable to any officials or employees of any such municipality or county unless the Legislative Research Commission makes affirmative findings of fact that as of July 1, 1984, there exist within the State adequate in-service and pre-service training opportunities to permit employees or prospective employees of such municipalities and counties to secure at various convenient places throughout the State or by correspondence courses the training necessary to retain limited certificates or to secure standard certificates, and to provide an adequate pool of qualified personnel to enforce applicable codes in such municipalities or counties. Unless the Legislative Research Commission shall make such affirmative findings of fact, then neither the North Carolina Code Officials Qualification Board nor the North Carolina Building Code Council nor the Commissioner of Insurance nor the Department of Insurance shall enforce any provision of this act as to any municipality of less than 25,000 population or any county of less than 75,000 population according to the 1970 U.S. Census or as to any official or employee of any such municipality or county.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 699 CHAPTER 532

AN ACT TO CONTINUE THE NORTH CAROLINA ENVIRONMENTAL POLICY ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 12 of Chapter 1203 of the 1971 Session Laws (being the North Carolina Environmental Policy Act), as amended by Chapter 119 of the 1973 Session Laws, is hereby rewritten to read as follows:

"Sec. 12. This act shall become effective on October 1, 1971, and shall remain in effect until September 1, 1981. No act or proceeding required or authorized under the act shall be initiated after September 1, 1981, but any such act or proceeding pending on said date shall be brought to its conclusion as if this act continued in effect."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 770 CHAPTER 533

AN ACT TO REDEFINE THE CORPORATE LIMITS OF THE TOWN OF MESIC.

The General Assembly of North Carolina enacts:

Section 1. Chapter 626, Session Laws of 1971, is hereby amended by rewriting Section 2.1 of the Charter of the Town of Mesic to read as follows:

"Sec. 2.1. BEGINNING in the northern edge of North Carolina Highway 304 at the southwest corner of the lands of Moses Smith, Jr.; thence northwardly and eastwardly along the property lines dividing the lands of James Ollison, Sr. from the lands of Moses Smith, Alphonsia Ollison, Richard Jones and James R.

Ollison, Jr. to the northeast corner of the James R. Ollison, Jr. parcel; thence eastwardly to a point in the western property line of Herbert Ollison which point is determined by extending the northern property line of James R. Ollison, Jr. in an eastward direction; thence northwardly and eastwardly along the property lines dividing the lands of James R. Ollison, Sr. from the lands of Herbert Ollison, George McGlone and Joe Ollison to the northeast corner of Joe Ollison's land; thence northwardly along the property line dividing the lands of James Ollison, Sr. from the lands of S. M. Jones to S. M. Jones' northern corner; thence southeastwardly along and with the S. M. Jones northeast property line to a point at which a line drawn perpendicular to N. C. 304 and 500 feet in length will meet said property line; thence continuing in an east southeast direction parallel to and 500 feet from the centerline of N. C. 304 to a point on the east side of Little Vandemere Creek; thence northwardly running at various courses and distances with the east side of Little Vandemere Creek and gut to the northwest corner of the Ethel Smith lands; thence southeastwardly with a canal to the northeast corner of the land of the Selvin Jones heirs; thence southeastwardly with the property lines dividing the property of Nancy Carawan and Troy D. Potter from the lands of Selvin Jones heirs, Barney Jones Estate, Roger Smith heirs, Richard Ollison, Homer Credle, Annie and Eugene Bracy and James Jones to a point being James Jones' northeast corner; thence eastwardly in a straight line approximately 550 feet to the northwest corner of the Troy D. Potter residence tract; thence eastwardly with the northern boundary line of the Troy D. Potter residence tract and the Messick tract to the northeast corner of the Messick tract; thence southeastwardly along the property line dividing the Fae Whealton property from the Messick tract a distance of approximately 125 feet to a point where the ditch intersects said property line if extended westwardly; thence eastwardly with the said ditch to the western property line of Muriel Jones; thence northwardly approximately 40 feet, a point where a canal intersects the western property line of Muriel Jones; thence eastwardly with said canal behind Muriel Jones residence lot to the western property line of Bryan Jones; thence northwardly along the property line dividing the property of Muriel Jones from the lands of Bryan Jones and Mrs. S. E. Jones to the northeast corner of the Muriel Jones Tract; thence southeastwardly along the property line dividing the lands of Troy D. Potter from the lands of Mrs. S. E. Jones to a point being the northwest corner of Sally Mallon; thence eastwardly along the property line dividing the lands of Troy Potter from the lands of Sally Mallon, Harris Cooper, C. T. Henries, W. T. Whealton, and Edward Miller; thence eastwardly along the property line dividing the Claude W. Carawan lands from the lands of Edward Miller to a gut; thence southwardly with said gut a distance of 500 feet to a point where said gut would be intersected by the centerline of N. C. S. R. 1223 extended in a southwestward direction; thence northeastwardly along the centerline of N. C. S. R. 1223 an extension thereof a distance of 450 feet to the northwest corner of the Lina Henries tract; thence southeastwardly to the southeast corner of the Lina Henries tract; thence southeastwardly in a straight line to the northern corner of the lands of Edgar Doane; thence along the property lines dividing the lands of Troy D. Potter from the lands of Edgar Doane and Andrew Morris a distance of approximately 1750 feet to the northeast corner of the Andrew Morris parcel; thence northeastwardly with the Joe Morris line approximately 200 feet to a ditch; thence southeastwardly with said ditch approximately 650

feet to the southwest corner of the lands of Ernest Mayo; thence northeastwardly with the property line dividing the lands of Joe Morris from the lands of Ernest Mayo and Troy D. Potter to a point being the northwest corner of the Troy D. Potter tract; thence southeastwardly with a ditch and with the northeastern property line of Troy D. Potter, S. R. Carawan and Evelyn Hill to a point in the northern edge of the N. C. Highway 304 being the northeastern property line of Evelyn Hill; thence southwestwardly in a straight line crossing N. C. Highway 304 a distance of approximately 1920 feet to the northeast corner of the Bruce Morris tract; thence southwestwardly with the southeast property line of the Bruce Morris tract to the southeast corner of said tract; thence westwardly to the northeast corner of the Bowen Carawan parcel; thence southwardly with the Bowen Carawan east property line to the southeast corner of said parcel; thence westwardly to the western property line of Andrew Morris; thence southwardly with the west property line of Andrew Morris approximately 700 feet to a creek (Bear Creek); thence southeastwardly with Bear Creek approximately 1300 feet to the mouth of Bennett's Creek; thence southwestwardly with Bennett's Creek approximately 3000 feet to a point on the southern shoreline of Bennett's Creek, said point being the point where the southeastern property line of S. C. Mayo lands intersects the waters edge; thence with the southeast property line of S. C. Mayo to N. C. S. R. 1227; thence northwestwardly and crossing N. C. S. R. 1227 approximately 300 feet to the southeast corner of the E. R. Mayo lot; thence southwestwardly with E. R. Mayo's southeastern property line to E. R. Mayo's southwest corner; thence southwestwardly along the property line dividing the S. C. Mayo, E. R. Mayo, Forest Futures, Inc. property from the lands of Mrs. S. E. Jones and Celia Perry approximately 3000 feet to a gut on Vandemere Creek; thence northwestwardly various courses with Vandemere Creek to the mouth of Door's gut; thence northwardly at various courses and distances with Door's gut to a point where the southern edge of N. C. Highway 304 intersects said gut; thence northwardly across N. C. Highway 304 in a straight line to the Point of BEGINNING."

Sec. 2. All property which was within the corporate boundaries of the Town of Mesic as said corporate limits were established in Chapter 626, Session Laws of 1971, and Chapter 1043, Session Laws of 1973, shall remain liable for taxes levied for the 1977 tax year until such taxes are paid.

Sec. 3. Chapter 1043, Session Laws of 1973, is hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 1097 CHAPTER 534

AN ACT TO AMEND G.S. 160A-288 TO ALLOW INCREASED MUTUAL ASSISTANCE BETWEEN LAW ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-288 is rewritten to read as follows:

"§ 160A-288. *Cooperation between law enforcement agencies.*—(a) In accordance with rules, policies, or guidelines officially adopted by the governing body of the city or county by which he is employed, and subject to any conditions or restrictions included therein, the head of any law enforcement agency may temporarily provide assistance to another agency in enforcing the

laws of North Carolina if so requested in writing by the head of the requesting agency. The assistance may comprise allowing officers of the agency to work temporarily with officers of the requesting agency (including in an undercover capacity) and lending equipment and supplies. While working with the requesting agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities as the officers of the requesting agency in addition to those he normally possesses. While on duty with the requesting agency, he shall be subject to the lawful operational commands of his superior officers in the requesting agency, but he shall for personnel and administrative purposes, remain under the control of his own agency, including for purposes of pay. He shall furthermore be entitled to workmen's compensation and the same benefits when acting pursuant to this section to the same extent as though he were functioning within the normal scope of his duties.

(b) As used in this section:

(1) 'Head' means any director or chief officer of a law enforcement agency including the chief of police of a local department, chief of police of county police department, and the sheriff of a county, or an officer of one of the above named agencies to whom the head of that agency has delegated authority to make or grant requests under this section, but only one officer in the agency shall have this delegated authority at any time.

(2) 'Law enforcement agency' means only a municipal police department, a county police department, or a sheriff's department. All other State and local agencies are exempted from the provisions of this section.

(c) This section in no way reduces the jurisdiction or authority of State law enforcement officers."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 1115 CHAPTER 535

AN ACT TO INCREASE THE MEMBERSHIP OF THE PRIVATE PROTECTIVE SERVICES BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74B-4(a) is hereby rewritten to read as follows:

"(a) The Private Protective Services Board, hereafter called 'the board', is hereby established in the Department of Justice. The board shall consist of eight members: the Director of the North Carolina State Bureau of Investigation; two persons appointed by the Attorney General of North Carolina; one person appointed by the Governor of North Carolina; one person appointed by the Lieutenant Governor of North Carolina; one person appointed by the President pro tem of the North Carolina Senate; and two persons appointed by the Speaker of the North Carolina House of Representatives. Those persons appointed by the President pro tem of the Senate and the Speaker of the House of Representatives shall be licensees under this Chapter.

A chairman of the board shall be selected by the members of the board for a term of one year, and shall be eligible for reelection.

The terms of the board members shall begin as follows: the Attorney General shall appoint two persons to serve terms of two years beginning July 1, 1977; the person appointed by the Governor shall serve a term of four years beginning July 1, 1977; the person appointed by the Lieutenant Governor shall serve a term of four years beginning July 1, 1977; the person appointed by the President pro tem of the Senate shall serve a term of two years beginning July 1, 1977; and the Speaker of the House of Representatives shall appoint one person to serve a term of four years, and one person to serve a term of two years beginning July 1, 1977."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 1250 CHAPTER 536

AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS FOR RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. For the purpose of nominating and electing the six members of the Board of County Commissioners for Richmond County, the county shall be divided into five resident districts as follows:

District #1 shall be composed of the entire county.

District #2 shall be composed of Beaverdam, Steels, Mineral Springs and Black Jack Townships.

District #3 shall be composed of Rockingham Township.

District #4 shall be composed of Wolf Pitt Township.

District #5 shall be composed of Marks Creek Township.

Sec. 2. The chairman of the board of county commissioners shall be a separate office and the chairman shall be nominated and elected from District #1, and, in addition, one member shall be nominated and elected from District #1.

The chairman shall not have a vote on matters before the board, but shall have a vote only to break a tie.

Candidates must be residents of the district for which they seek election. All candidates shall be nominated and elected by the voters of the entire county. In the general election, the candidate for each district receiving the highest number of votes cast for candidates from that district shall be elected.

Beginning with the primary and general election for county offices in 1978, the chairman of the board of commissioners and one member shall be nominated and elected from District #1, and one candidate shall be elected from District #4 and one candidate shall be elected from District #2. The terms of the members elected in 1978 shall be for four years except the additional commissioner from District #1 shall be elected in 1978 for a two-year term. Thereafter, as the terms expire, successors shall be elected for terms of four years, provided that the additional commissioner from District #1 shall be elected every two years.

In 1980, one member shall be elected from District #3, and one member shall be elected from District #5 for terms of four years. Thereafter, as the terms expire, successors shall be elected for terms of four years.

Sec. 3. The present members of the board of commissioners from Districts #3 and #5 shall serve until 1980 and until their successors are elected and qualified.

Sec. 4. Chapter 1175, Session Laws of 1955, is hereby repealed.

Sec. 5. Immediately upon ratification of this act the clerk of superior court shall appoint a qualified resident voter of District #4 to the board of county commissioners and the person so appointed shall immediately take the oath of office and shall serve until his successor is elected and qualified as provided in Section 2 of this act.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 527 CHAPTER 537

AN ACT TO AMEND THE EFFECTIVE DATE OF CHAPTER 123 OF THE SESSION LAWS OF 1975 RELATING TO PAYMENTS FROM THE STATE FUND FOR MEDICAL ASSISTANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 123 of the Session Laws of 1975 is hereby amended to read as follows:

"Sec. 4. This act shall become effective upon ratification, and shall expire December 31, 1979."

Sec. 2. It is the intent of this act to continue in effect the amendments to Chapter 108 of the General Statutes relating to payments from the State Fund for Medical Assistance to such fiscal intermediaries and prepaid health service contractors as may be authorized by the Social Services Commission.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 579 CHAPTER 538

AN ACT TO AMEND G.S. 47-71.1 SO AS TO VALIDATE CORPORATE DEEDS MADE PRIOR TO JANUARY 1, 1975, ON WHICH THE CORPORATE SEAL WAS OMITTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-71.1, as the same appears in the 1976 Replacement Volume 2A of the General Statutes, is amended by striking from the first line and from the second line thereof the year "1973" and substituting in lieu thereof "1975".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 1147 CHAPTER 539

AN ACT AUTHORIZING A PRINCIPAL TO DELEGATE RESPONSIBILITIES AND DUTIES TO AN ASSISTANT PRINCIPAL.

The General Assembly of North Carolina enacts:

Section 1. Any duty or responsibility assigned to a principal by statute, State Board of Education regulation, or by the superintendent may, with the approval of the local county or city board of education, be assigned by the principal to an assistant principal designated by the local board of education or to an acting principal designated by a principal.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 1464 CHAPTER 540

AN ACT CONTINUING IN EXISTENCE THE CIVIL SERVICE COMMISSION OF THE CITY OF HIGH POINT UNTIL JUNE 30, 1977, NOTWITHSTANDING THE PROVISIONS OF CHAPTER 248 OF THE SESSION LAWS OF 1977.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 248 of the Session Laws of 1977 is amended by striking out the words "upon ratification" and inserting in lieu thereof the words "on July 1, 1977".

Sec. 2. Notwithstanding the repeal on April 25, 1977, of the acts listed in Section 1 of Chapter 248 of the Session Laws of 1977, those acts are hereby reenacted and shall continue in full force and effect until July 1, 1977.

Sec. 3. All official acts of the Civil Service Commission of the City of High Point and the City of High Point done between April 25, 1977, and the effective date of this act in conformity with the acts listed in Section 1 of Chapter 248 of the Session Laws of 1977 are hereby ratified, validated, and confirmed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 205 CHAPTER 541

AN ACT TO PROVIDE FOR ANNUAL TESTING IN THE PUBLIC SCHOOLS IN ORDER TO ASSESS THE EFFECTIVENESS OF THE EDUCATIONAL PROCESS.

The General Assembly of North Carolina enacts:

Section 1. Purpose. In order to assess the effectiveness of the educational process, and to insure that each pupil receives the maximum educational benefit from the educational process, the State Board of Education shall implement an annual statewide testing program in basic subjects. It is the intent of this testing program to help local school systems and teachers identify and correct student needs in basic skills rather than to provide a tool for comparison of individual students or to evaluate teacher performance. The first statewide testing program shall be conducted prior to the end of the 1977-78

school year for the first, second, third, sixth and ninth grades, provided that criterion reference tests shall be used in the first and second grades and norm reference tests shall be used in the testing program in grades 3, 6 and 9. Students in these grade levels who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.

Sec. 2. State Board of Education responsibilities. The State Board of Education shall have the responsibility and authority to make those policies necessary for the implementation of the intent and purposes of this act, not inconsistent with the provisions of this act.

Sec. 3. Appointment of Testing Commission. (a) On or before July 1, 1977, the Governor shall appoint a Testing Commission composed of 11 members who shall hold office for two years or until their successors are nominated and appointed. Any vacancy on the Testing Commission shall be filled by the Governor by appointment for the unexpired term. Six of the members of the Testing Commission shall be certified teachers currently employed for the grades in which tests are to be administered; two shall be persons competent in the field of psychological measurement; one shall be a school principal; one shall be a supervisor of elementary instruction; and one shall be the superintendent of a local administrative unit. The members of the Testing Commission shall be entitled to compensation for each day spent on the work of the Testing Commission, as approved by the State Board of Education, and receive reimbursement for travel and subsistence expense incurred in the performance of their duties at the rates specified in G.S. 138-5 or G.S. 138-6, whichever is applicable to the individual member. All currently employed teachers serving on the Commission shall be entitled to receive their full pay for each school day spent on the work of the Commission without any reduction in salary for a substitute teacher's pay.

(b) The Superintendent of Public Instruction, or his designee, shall serve as an ex officio, nonvoting member of the Testing Commission.

Sec. 4. Evaluation and selection of tests. (a) The members of the Testing Commission shall secure copies of tests designed to measure the level of academic achievement. Each of these tests shall be examined carefully and the Testing Commission shall file with the State Board of Education a written evaluation of each of these tests along with appropriate recommendations. In evaluating a test, the Testing Commission shall give special consideration to the suitability of a test to the instructional level or special education program or level for which it is intended to be used and the validity of the test.

(b) The Testing Commission shall annually review the suitability and validity of the tests in use by the State Board of Education for the purposes of this act and investigate the suitability and validity of other tests. A written evaluation of all tests and any recommendations considered by the Testing Commission shall be filed with the State Board of Education.

Sec. 5. Duties of the State Board of Education. The State Board of Education shall review the recommendations of the Testing Commission and select the tests that it believes will provide the best measures of the levels of academic achievement attained by students in various subject areas. The State Board of Education shall also establish policies and guidelines necessary for carrying out the provisions of the act.

Sec. 6. Duties of the State Superintendent of Public Instruction. The State Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for the statewide administration of the testing program provided by this act and for providing necessary staff services to the Testing Commission.

Sec. 7. Duties of the local boards of education. Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this act, including the regulations and policies established by the State Board of Education. Local school systems are encouraged to continue to develop local testing programs designed to diagnose student needs further.

Sec. 8. Public records exception. Any written material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this act shall not be considered a public record within the meaning of G.S. 132-1 and shall not be disseminated or otherwise made available to the public by any member of the State Board of Education, any employee of the State Board of Education, the Superintendent of Public Instruction, any employee of the Department of Public Instruction, any member of a local board of education, any employee of a local board of education, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g.

Sec. 9. Provisions for nonpublic schools. The State Board of Education may require the implementation of the testing program contemplated by this act in nonpublic schools supervised by it pursuant to the provisions of Article 32 of Chapter 115 of the General Statutes.

Sec. 10. This program and the provisions of this act shall be implemented to the extent appropriations are provided by the General Assembly, but nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Public Instruction.

Sec. 11. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 323 CHAPTER 542

AN ACT TO REENACT G.S. 24-1.1A REMOVING THE INTEREST RATE CEILING ON HOME LOANS SECURED BY FIRST MORTGAGES OR DEEDS OF TRUST WITHOUT A TIME LIMIT.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 24 of the General Statutes is hereby amended by repealing G.S. 24-1.1A and Chapter 260 of the 1975 Session Laws and replacing it with a new section to be numbered G.S. 24-1.1A and to read as follows:

"§ 24-1.1A. *Contract rates on home loans secured by first mortgages or first deeds of trust.*—(a) Notwithstanding any other provision of this Chapter, parties to a home loan may contract in writing as follows:

(1) Where the principal amount is ten thousand dollars ($10,000) or more the parties may contract for the payment of interest as agreed upon by the parties;

(2) Where the principal amount is less than ten thousand dollars ($10,000) the parties may contract for the payment of interest as agreed upon by the parties, if the lender is either (i) approved as a mortgagee by the Secretary of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, a national mortgage association or any federal agency; or (ii) a local or foreign bank, savings and loan association or service corporation wholly owned by one or more savings and loan associations and permitted by law to make home loans, credit union or insurance company; or (iii) a State or federal agency;

(3) Where the principal amount is less than ten thousand dollars ($10,000) and the lender is not a lender described in the preceding subsection (2) the parties may contract for the payment of interest not in excess of ten percent (10%) per annum.

(b) No prepayment fees shall be contracted by the borrower and lender with respect to any home loan where the principal amount borrowed is one hundred thousand dollars ($100,000) or less; otherwise a lender and a borrower may agree on any terms as to the prepayment of a home loan.

(c) Except as limited by subsection (b) above, a lender may charge to the borrower the fees described in G.S. 24-10.

(d) The loans or investments regulated by G.S. 53-45 shall not be subject to the provisions of this section.

(e) The term 'home loan' shall mean a loan where the principal amount is less than three hundred thousand dollars ($300,000) secured by a first mortgage or first deed of trust on real estate upon which there is located or there is to be located one or more single-family dwellings or dwelling units."

Sec. 2. Any home loan obligation existing before the effective date of this act shall be construed with regard to the law existing at the time the home loan or commitment to lend was made and this act shall only apply to home loans or loan commitments made from and after the effective date of this act; provided, however, that variable rate home loan obligations executed prior to April 3, 1974, which by their terms provide that the interest rate shall be decreased and may be increased in accordance with a stated cost of money formula or other index shall be enforceable according to the terms and tenor of said written obligations.

Sec. 3. If any provision of this Chapter or its application to any person or circumstances is held invalid, the remainder of this Chapter and its applications to other persons or circumstances shall not be affected thereby.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 1035

CHAPTER 543

AN ACT TO PROVIDE FOR THE INCORPORATION AND OPERATION OF STOCK-OWNED SAVINGS AND LOAN ASSOCIATIONS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter 54A of the General Statutes is enacted, entitled "Capital Stock Savings and Loan Associations", to read as follows:

"ARTICLE I.

"Stock-Owned Associations.

"§ 54A-1. *Stock-owned associations permitted.*—In addition to the savings and loan associations described in Chapter 54, savings and loan associations may be organized, incorporated and operated under this Chapter and owned by holders of capital stock in the association. Such associations shall be known as 'stock-owned' savings and loan associations. Savings and loan associations organized under Chapter 54 shall be known as 'mutual savings' and loan associations. No mutual savings and loan association shall be allowed to convert to a stock-owned savings and loan association under the provisions of this Chapter.

"§ 54A-2. *Statutes and regulations pertaining to mutual associations and private corporations shall apply.*—(a) Except as otherwise provided in this Chapter the provisions of Chapter 54 and the regulations promulgated thereunder shall apply to stock-owned savings and loan associations.

(b) All provisions of law relating to private corporations including the provisions of Chapter 55, not inconsistent with this Chapter or with the proper business of savings and loan associations shall apply to stock-owned savings and loan associations.

"§ 54A-3. *Under control of Administrator of the Savings and Loan Division.*—Stock owned savings and loan associations shall be under the supervision of the Administrator of the Savings and Loan Division. It shall be his duty to execute and enforce all laws which are now or may hereafter be enacted relating to stock-owned savings and loan associations as defined in this Chapter. The powers, duties, and functions granted to or imposed by this Chapter upon the Administrator of the Savings and Loan Division shall be exercised by him subject to the provisions of Article 4 of this Chapter. For the more complete and thorough enforcement of the provisions of this Chapter, the Administrator of the Savings and Loan Division is hereby empowered to promulgate such rules, regulations, and instructions, not inconsistent with the provisions of this Chapter, as may in his opinion be necessary to carry out the provisions of this Chapter, and to provide adequate protection for the interests of the depositories, creditors, stockholders and the public.

"G.S. 54A-4 and G.S. 54A-5. (Reserved.)

"ARTICLE 2.

"Organization.

"§ 54A-6. *How incorporated.*—(a) In order to incorporate a stock-owned savings and loan association, the proposed incorporators, not less than 10 in number, shall, by a certificate of incorporation under their hands and seals set forth:

(1) The name of the corporation, which must not so closely resemble the name of an existing corporation doing business under the laws of this State as to be likely to mislead the public.

(2) The address where its principal office is to be located in this State, including county and city or town, and street and number; and the name of its registered agent and the address of its registered office including county and city or town, and street and number.

(3) The period of duration, which may be perpetual. When the certificate fails to state the period of duration, it shall be considered perpetual.

(4) The purposes for which the corporation is formed, which shall be limited to purposes permitted under the laws of this State for stock-owned savings and loan associations.

(5) With respect to the shares which the associations shall have authority to issue:

a. if the shares are to have a par value, the number of such shares and the par value of each share;

b. if the shares are to be without par value, the number of such shares;

c. if the shares are to be of both kinds mentioned in paragraphs a. and b. of subdivision (5) of this section, particulars in accordance with those paragraphs;

d. if the shares are to be divided into classes, or into series within a class of preferred or special shares, the certificate of incorporation shall also set forth a designation of each class, with a designation of each series within a class, and a statement of the preferences, limitations and relative rights of the shares of each class or series.

(6) The minimum amount of consideration for its shares to be received by the association before it shall commence business.

(7) The names and addresses of all the subscribers for stock, and the number of shares subscribed by each.

(8) A statement as to whether stockholders have preemptive rights to acquire additional or treasury shares of the corporation and any provision limiting or denying said rights.

(9) The number of directors not less than five constituting the initial board of directors (who may be classified in accordance with the provisions of G.S. 55-26) and the names and addresses of each person who is to serve as a director until the first meeting of shareholders or until his successor be elected and qualified.

(10) The names and addresses of the incorporators.

(11) The certificate shall be signed and sealed by the incorporators.

(b) The certificate of incorporation shall be signed by the original incorporators, or a majority of them not less then 10, and shall be proved or acknowledged before an officer duly authorized under the laws of this State to take proof or acknowledgement of deeds, and shall be filed in the office of the Secretary of State. The Secretary of State shall forthwith transmit to the Administrator of the Savings and Loan Division a copy of said certificate of incorporation, and shall not issue or record the same until duly authorized so to do by the Administrator of the Savings and Loan Division as hereinafter provided.

"§ 54A-7. *Administrator to consider application.*—(a) Upon receipt from the Secretary of State of the certificate of incorporation of a proposed stock-owned

association, the Administrator of the Savings and Loan Division shall examine all the facts connected with the proposed association. If it appears that such association complies with the requirements of this section, and is otherwise lawfully entitled to commence the business for which it is organized, the Administrator of the Savings and Loan Division shall so certify to the Secretary of State, who shall issue and record the certificate of incorporation.

(b) The Administrator of the Savings and Loan Division shall certify the certificate of incorporation of a proposed stock-owned association when all of the following criteria are met:

(1) The proposed corporation has subscriptions for capital stock in an amount determined by the Administrator of the Savings and Loan Division to be sufficient for the safe and proper operation of the corporation, but in no event less than three hundred fifty thousand dollars ($350,000).

(2) The proposed association has set aside as a permanent capital reserve, an amount of funds determined by the Administrator of the Savings and Loan Division to be sufficient for the safe and proper operation of the association, but in no event less than three hundred fifty thousand dollars ($350,000).

(3) All subscriptions for capital stock of the proposed association have been purchased with legal tender of the United States.

(4) All initial stockholders of the proposed association are natural persons and residents of North Carolina.

(5) No stockholders of the proposed association own or control more than ten percent (10%) of the stock in the association. Notwithstanding any other provisions of this Chapter, stock ownership in a stock-owned savings and loan association shall not be held by any other financial institution.

(6) The character, general fitness, and responsibility of the stockholders of the proposed corporation command the confidence of the community where the association is to be located.

(7) The public convenience and advantage will be served by the establishment of the proposed association.

(8) The name of the proposed association will not mislead the public; is not the same as an existing savings and loan association or so similar to the name of an existing association as to mislead the public; and contains the wording 'corporation', 'incorporated', 'limited' or 'company', an abbreviation of one of such words or other words sufficient to distinguish stock-owned savings and loan associations from mutual savings and loan associations.

"§ 54A-8. *Amendments to certificate.*—Any addition, alteration or amendment of the certificate of incorporation of any stock-owned savings and loan association shall be governed by the provisions of Article 8, Chapter 55 of the General Statutes except to the extent that said provisions are inconsistent with this Chapter or with the business of stock-owned savings and loan associations. Any such addition, alteration or amendment shall be filed with the Secretary of State and register of deeds in the county where the principal office is located, and examined by the Administrator of the Savings and Loan Division in the manner provided for certificates of incorporation in G.S. 54A-6 and G.S. 54A-7.

"§ 54A-9. *Certification of certificate; when to begin business.*—(a) Upon receipt of such certificate from the Administrator of the Savings and Loan Division, the Secretary of State shall, if said certificate of incorporation be in accordance with law, cause the same to be recorded in his office in a book to be kept for that purpose, and known as the corporation book, and he shall, upon the payment of the organization tax and fees, certify under his official seal two copies of the said certificate of incorporation and probates, one of which shall forthwith be recorded in the office of the register of deeds of the county where the principal office of said corporation in this State shall or is to be located, in a book to be known as the record of incorporations, and the other certified copy shall be filed in the office of the Administrator of the Savings and Loan Division, and thereupon the said persons shall be a body politic and corporate under the name stated in such certificate. The said certificate of incorporation, or a copy thereof, duly certified by the Secretary of State or the register of deeds of the county in which the same is recorded, or by the Administrator of the Savings and Loan Division, under their respective seals, shall be evidence in all courts and places, and shall, in all judicial proceedings, be deemed prima facie evidence of the complete organization and incorporation of the company purporting thereby to have been established.

(b) Upon filing the certificate of incorporation with the Secretary of State and with the register of deeds in the county where the principal office of the stock-owned association is to be located, the stock-owned savings and loan association shall become a body authorized to begin business when licensed or certified by the Administrator of the Savings and Loan Division as provided in G.S. 54A-7.

"G.S. 54A-10 and G.S. 54A-11. (Reserved.)

"ARTICLE 3.

"Operation of Stock-owned Associations.

"§ 54A-12. *Rules and regulations.*—The Administrator of the Savings and Loan Division shall promulgate rules and regulations governing the continuing operation of stock-owned savings and loan associations. These rules and regulations shall include requirements that:

(1) the capital stock and permanent capital reserve of the corporation remain sufficient to continue safe and proper operation of the corporation;

(2) all initial stockholders, directors, and officers of the corporation are natural persons and residents of North Carolina;

(3) no stockholder of the corporation owns or controls more than ten percent (10%) of the stock of the corporation;

(4) the customers of the corporation, and the citizens of North Carolina in general, are protected as fully as possible from poor or improper operation of the corporation.

"§ 54A-13. *Profits and permanent capital reserve.*—The Administrator of the Savings and Loan Division shall promulgate rules and regulations governing the manner and amount of dividends which may be paid to stockholders of the corporation, and the methods, if any, by which permanent capital reserve may be retired or reduced.

"§ 54A-14. *Penalty for violation.*—Violation by a stockholder, director, officer of a corporation, or by the corporation itself, of any provision of this Chapter or any rules and regulations of the Administrator of the Savings and Loan Division, shall be grounds for revocation of the corporation's license, in the

discretion of the Administrator of the Savings and Loan Division. Knowing and intentional violation shall also be a misdemeanor, to be punished as provided by law.

"G.S. 54A-15 through G.S. 54A-19. (Reserved.)

"ARTICLE 4.

"Loans and Deposits.

"§ 54A-20. *Maximum for charges.*—Notwithstanding any other provision of the General Statutes, stock-owned savings and loan associations may not charge interest on residential loans in excess of ten percent (10%) per annum on any loan. The interest rates on all other loans shall be in compliance with the applicable provisions of Chapter 24 of the General Statutes.

"§ 54A-21. *No maximum on interest paid on deposits.*—Notwithstanding any other provision of the General Statutes, stock-owned savings and loan associations are not limited in the rate of interest they may pay on deposits. Nevertheless, the Administrator of the Savings and Loan Division shall have the authority to insure that no savings and loan association pays a rate of interest on deposits inconsistent with the association's continued solvency, and safe and proper operation. All deposits shall be insured. All savings and loan associations established under this Chapter shall obtain and maintain insurance on all depositors' accounts from any mutual deposit guaranty associations which qualify under Article 7A of Chapter 54 of the General Statutes or from the Federal Savings and Loan Insurance Corporation."

Sec. 2. G.S. 54-1 is amended by denominating the present section as subsection (a) and adding a subsection (b) to read as follows:

"(b) The preceding subsection notwithstanding, a stock-owned savings and loan association organized under Chapter 54A shall be a 'building and loan association' or 'savings and loan association' as those terms are used in this Subchapter and the General Statutes. All the provisions of this Subchapter and of the General Statutes relating to building and loan associations or savings and loan associations shall apply to stock-owned savings and loan associations except as otherwise provided in Chapter 54A. The corporation organized under the provisions of this Chapter shall be taxed as a business corporation organized under the provisions of Chapter 55.

Stock-owned savings and loan associations may use the terms 'building and loan association' and 'savings and loan association' in their corporate names and said associations may hold themselves out to the public as building and loan associations or savings and loan associations subject to the requirements of G.S. 54A-7(b). Stock-owned savings and loan associations shall not hold themselves out to the public as mutual savings and loan associations."

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 284 **CHAPTER 544**

AN ACT TO AMEND G.S. 130-143 TO REQUIRE ALL CONTRACTS FOR WORK, SUPPLIES AND MATERIALS LET BY SANITARY DISTRICTS, TO COMPLY WITH THE PROVISIONS OF ARTICLE 8, CHAPTER 143 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-143 is amended by deleting the second and third paragraphs and by inserting in lieu thereof the following:

"All contracts for work performed for construction or repair, and for the purchase of materials and supplies by sanitary districts shall be in accordance with the provisions of Article 8, Chapter 143 of the General Statutes which are applicable to counties and municipal corporations."

Sec. 2. This act shall not apply to contracts advertised prior to the effective date of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 349 **CHAPTER 545**

AN ACT TO AMEND G.S. 1-223 RELATING TO JUDGMENTS AGAINST A MARRIED WOMAN IN CIVIL ACTIONS BY EXTENDING IT TO APPLY TO ANY MARRIED PERSON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-223, as it appears in 1969 Replacement Volume 1A of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 1-223. *Against married persons.*—In an action brought by or against a married person, judgment may be given against such married person for costs or damages or both, to be levied and collected solely out of such married person's separate estate or property."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 351 **CHAPTER 546**

AN ACT TO AMEND G.S. 7A-104 RELATING TO CERTAIN DISQUALIFICATIONS OF THE CLERK OF COURT BY CHANGING THE TERM "WIFE" TO "SPOUSE".

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-104(a), as it appears in the 1975 Cumulative Supplement to 1969 Replacement Volume 1B of the General Statutes, is amended in subdivision (3) and in subdivision (4) by deleting the words "he or his wife" and in each subdivision substituting therefor the words "clerk or the clerk's spouse".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 352 **CHAPTER 547**

AN ACT TO AMEND THE LAW RELATING TO TESTIMONY OF A MARRIED PERSON WHOSE SPOUSE BRINGS AN ACTION FOR CRIMINAL CONVERSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-56, as it appears in 1969 Replacement Volume 1B of the General Statutes, is amended on lines 12 and 13 by deleting the words "the husband in which the character of the wife is assailed she" and substituting therefor the language "a married person in which the character of the spouse is assailed, that spouse".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 356 **CHAPTER 548**

AN ACT TO AMEND G.S. 20-187.2 BY CHANGING THE TERM "WIDOW" TO "SURVIVING SPOUSE".

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-187.2(a), as it appears in the 1975 Cumulative Supplement to 1975 Replacement Volume 1C of the General Statutes, is amended in line 1 by deleting the word "Widows" and substituting therefor the words "Surviving spouses"; and is further amended in line 2 by deleting the word "widow" and substituting therefor the word "spouse".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 357 **CHAPTER 549**

AN ACT TO AMEND G.S. 23-18 BY CHANGING THE TERM "WIFE" TO "SPOUSE".

The General Assembly of North Carolina enacts:

Section 1. G.S. 23-18, as it appears in 1965 Replacement Volume 1D of the General Statutes, is amended by deleting the words "his wife, or any of his" and substituting therefor the words "his or her spouse, or any of his or her".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 363 **CHAPTER 550**

AN ACT TO REMOVE SEX DISCRIMINATORY PROVISIONS FROM G.S. CHAPTER 94 RELATING TO APPRENTICESHIP.

The General Assembly of North Carolina enacts:

Section 1. G.S. 94-7(4), as it appears in 1975 Replacement Volume 2C of the General Statutes, is amended near the end of the subdivision by deleting the words "and sex".

Sec. 2. G.S. 94-8, as it appears in 1975 Replacement Volume 2C of the General Statutes, is amended in the second sentence after the language "if the apprentice is a minor, by" by striking out the remainder of the sentence including the proviso, and substituting therefor the following: "either of the minor's lawful parents, or by any person, agency, organization or institution standing in loco parentis."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 364 **CHAPTER 551**

AN ACT TO AMEND CERTAIN SECTIONS OF G.S. CHAPTER 110 WHICH RELATE TO CHILD LABOR REGULATIONS BY REMOVING SEX DISCRIMINATORY PROVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-1, as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended on line 6 by deleting the word "boys" and inserting in lieu thereof the word "minors".

Sec. 2. G.S. 110-2, as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended on lines 13 and 16 by deleting in each of those lines the word "boys" and by inserting in lieu thereof the word "minors"; and

G.S. 110-2 is further amended by rewriting the proviso that begins after the semicolon on line 23 and continues to the end of that sentence to read as follows: "and provided further, that minors employed as telegraph messengers in towns where a full-time service is not maintained on Sundays may work seven days per week, but not for more than two hours on Sunday."

Sec. 3. G.S. 110-7, as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended by deleting the third sentence of that section, which begins on line 14 with the word "Nor" and ends on line 18 with the word "messages".

Sec. 4. G.S. 110-8, as it appears in 1975 Replacement Volume 3A of the General Statutes, is rewritten to read as follows:

"§ 110-8. *Employment of minors in street trades; sale or distribution of newspapers, etc.*—No minor under 14 years of age shall distribute, sell, expose, or offer for sale newspapers, magazines, periodicals, candies, drinks, peanuts, or other merchandise in any street or public place, or exercise the trade of bootblack in any street or public place. No minor under 16 years of age shall be employed or permitted or allowed to work at any of the trades or occupations mentioned in this section after 7:00 p.m. or before 6:00 a.m., or unless that minor has an employment certificate issued in accordance with G.S. 110-9. The State Commissioner of Labor shall have authority to make, promulgate and

enforce such rules and regulations as he may deem necessary for the enforcement of this section, not inconsistent with this Article or existing law.

Nothing in this section shall be construed to prevent minors over 14 years of age from distributing newspapers, magazines and periodicals on fixed routes, seven days per week: Provided, that such persons shall not be employed nor allowed to work after 8:00 p.m. and before 5:00 a.m., and that the hours of work and the hours in school do not exceed eight in any one day, except minors 12 years of age and over who have secured a certificate from the Department of Labor for the sale or distribution of newspapers, magazines or periodicals: Provided further, that such person shall not be permitted or allowed to work more than four hours per day nor more than 24 hours per week: Provided further, that nothing in this Article shall be construed to prevent minors 12 years of age and over, upon securing a proper certificate from the Department of Labor, from being employed outside school hours in the sale or distribution of newspapers, magazines and periodicals (where not more than 75 customers are served in one day): Provided, that such minors shall not be employed between the hours of 7:00 p.m. and 6:00 a.m., nor for more than 10 hours in any one week."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 365 CHAPTER 552

AN ACT TO CONSTRUE "JUVENILE" AS ANY PERSON WHO HAS NOT REACHED HIS EIGHTEENTH BIRTHDAY IN APPLYING FOR THE RETURN OF A RUNAWAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-64, as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended by rewriting the last sentence to read as follows: "In applying the provisions of Article IV of the compact to secure the return of a runaway from North Carolina, the courts of this State shall construe the word 'juvenile' as used in this Article to mean any person who has not reached his or her eighteenth birthday."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 366 CHAPTER 553

AN ACT TO MAKE 18 THE MINIMUM AGE FOR SERVICE AS AN OFFICER IN THE STATE DEFENSE MILITIA FOR FEMALES AS WELL AS MALES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 127A-80(b), as it appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3B of the General Statutes, is amended in the third sentence immediately after the language: "To be eligible for service as an officer," by deleting the remainder of the sentence and substituting therefor the following language: "a person must be at least 18 years of age and under 64."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 368 CHAPTER 554

AN ACT TO AMEND G.S. 147-32 RELATING TO COMPENSATION FOR WIDOWS OF GOVERNORS TO MAKE THE LAW APPLICABLE TO ALL SURVIVING SPOUSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-32, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended on line 1 by deleting the word "widows" and substituting therefor the words "surviving spouses".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 480 CHAPTER 555

AN ACT TO INCREASE THE AMOUNT OF LAND THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES MAY ACQUIRE IN FEE SIMPLE ALONG THE NEW RIVER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-35.1, as the same appears in the 1975 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended on the third line of the third paragraph by deleting the words "400 acres" and substituting the words "550 acres, the computation of which shall not include lands received by donation," in lieu thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 545 CHAPTER 556

AN ACT TO EMPOWER PERSONAL REPRESENTATIVES TO MAKE ELECTIONS OF CERTAIN PERSONAL AND HOUSEHOLD EFFECTS FOR FEDERAL TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-13-3 is amended by:

(a) redesignating subsections (b) and (c) to be subsections (c) and (d) respectively;

(b) inserting a new subsection (b) immediately after subsection (a), to read as follows:

"(b) Except as qualified by express limitations imposed in a will of the decedent, and subject to the provisions of G.S. 28A-13-6 respecting the powers of joint personal representatives, a personal representative shall have absolute discretion to make the election as to which items of the decedent's personal and household effects shall be excluded from the carry over basis provision of the federal income tax law and such election shall be conclusive and binding on all concerned."

(c) rewriting redesignated subsection (c) (former subsection (b)) to read as follows:

"(c) Any question arising out of the powers conferred by subsections (a) and (b) above shall be determined in accordance with the provisions of Article 18 of this Chapter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 658 CHAPTER 557

AN ACT TO REWRITE G.S. 15A-773 TO PROVIDE FOR SERVICE OF CRIMINAL PROCESS UPON UNINCORPORATED ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-773 is rewritten to read as follows:

"§ 15A-773. *Securing attendance of organizations; appearance.*—(a) The court attendance of an organization for purposes of commencing or prosecuting a criminal action against it may be accomplished by:

(1) issuance and service of a criminal summons; or

(2) issuance of an information and waiver of indictment by an authorized officer or agent of the organization and by counsel for the organization, as provided in G.S. 15A-642(c); or

(3) service of the notice of the indictment, as provided in G.S. 15A-630.

The criminal summons or notice of indictment must be directed to the organization, and must be served by delivery to an officer, director, managing or general agent, cashier or assistant cashier of the organization, or to any other agent of the organization authorized by appointment or by law to receive service of process.

(b) At all stages of a criminal action, an organization may appear by counsel or agent having authority to transact the business of the organization.

(c) For purposes of this section, 'organization' means corporation, unincorporated association, partnership, body politic, consortium, or other group, entity, or organization."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

S. B. 744 CHAPTER 558

AN ACT TO AMEND G.S. 18A-16 TO PROVIDE FOR THE SELECTION OF THE MEMBERS OF SCOTLAND COUNTY ABC BOARD BY THE BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-16 is hereby amended:

(a) by deleting from the first paragraph of subsection (a) thereof, at lines 6 through 9, the following:

"in a joint meeting of the board of county commissioners, the county board of health, and the county board of education. Each person voting at this joint meeting shall have only one vote, notwithstanding the fact that there may be instances in which some persons are members of another board.",

and by substituting in lieu thereof the words "by the Scotland County Board of County Commissioners";

(b) by deleting from the second paragraph of subsection (a) thereof, at lines 11 and 12, the words "the appointing boards" and by substituting in lieu thereof the words "the Scotland County Board of County Commissioners";

(c) by deleting therefrom the third paragraph of subsection (a), lines 18 through 27, and by substituting in lieu thereof the following:

"Any member of the county board hereinabove referred to in this section may be removed at any time by the board of county commissioners whenever such board finds, by a majority vote of its membership, that a member or members are unfit to serve on the county alcoholic beverage control board. If any member of the county board is removed hereunder, his successor shall be selected to serve out the time for which such member was originally selected.";

(d) by deleting from the fourth paragraph of subsection (a), at lines 33 through 35, the following:

"at a joint meeting of the board of county commissioners, the county board of education, which joint meeting shall be held within 10 days after such resignation or death.",

and by substituting in lieu thereof the following:

"by the Scotland County Board of County Commissioners at its next regularly scheduled meeting following the death or resignation of the chairman or any other member of the county board of alcoholic control.";

(e) by deleting from subsection (c) thereof, at line 2, the words "joint meeting of the several boards that appoint them" and by substituting in lieu thereof the words "Scotland County Board of County Commissioners";

(f) by deleting from subsection (d) thereof, at lines 15 and 16, the words "The three joint boards referred to above", and by substituting in lieu thereof the words "The Scotland County Board of County Commissioners".

Sec. 2. This act shall apply only to Scotland County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.

H. B. 308 CHAPTER 559

AN ACT TO AMEND ARTICLES 14A THROUGH 14L OF CHAPTER 54 OF THE GENERAL STATUTES, RELATING TO CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-109.11 is amended by striking the paragraph which reads as follows: "Over one million dollars ($1,000,000) minimum amount, one hundred thousand dollars ($100,000) plus fifty thousand dollars ($50,000) for each additional million or fraction thereof of assets.", and substituting in lieu thereof the following:

"$1,000,001 to $50,000,000	$100,000 plus $50,000 for each million or fraction thereof of assets over $1,000,000.
$50,000,001 to $150,000,000	$2,500,000 plus $25,000 for each million or fraction thereof of assets over $50,000,000.
Over $150,000,000	$5,000,000."

Sec. 2. G.S. 54-109.14(a) is amended by striking the words "and examination" at the end of the first paragraph thereof and adding in lieu thereof the following:

"except those credit unions which liquidate or convert its charter shall pay into the office of the Administrator of Credit Unions, to the date of dissolution, pro rata supervision fees. Examination fees shall be paid promptly upon receipt of the examination report and invoice."

Sec. 3. G.S. 54-109.14(a) is further amended by striking from the second paragraph the following:

"However, when the costs of any examination exceed the annual fees assessed and paid by the credit union, the Administrator of Credit Unions may, in his discretion, invoke the provisions of G.S. 54-109.16, giving due consideration to the time and expense incident to such examination, and the ability of the credit union to pay such additional fees. The additional fees, if assessed by the administrator, in his discretion, shall be paid by each credit union promptly after the completion of the examination; provided that such additional fees shall not exceed the estimated cost of such examination."

Sec. 4. G.S. 54-109.16 is amended by striking therefrom the sentence which reads as follows:

"Whenever the cost of making the annual examination exceeds the annual fees paid by the credit union to the State, the administrator may charge the credit union the cost per day per man for each day required to complete the examination."

Sec. 5. G.S. 54-109.21 is amended by inserting at the end of the first paragraph the following:

"(25) In accordance with rules and regulations promulgated by the Administrator of Credit Unions, subject to the advice and consent of the Credit Union Commission, engage in any activity in which credit unions could engage if they were operating as federally chartered credit unions, if on investigation, the Administrator of Credit Unions finds it necessary to preserve and protect the welfare of the credit unions and to promote the general economy of this State.

(26) Subject to rules and regulations prescribed by the administrator, act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized and forming a part of a deferred compensation plan for its members or groups or organization of its members, provided the funds of such plans are invested in savings or deposits of the credit union. All funds held may be commingled for appropriate purpose of investment, but individual records shall be kept by the credit union for each participant and shall show in proper detail all transactions engaged in under authority of this section."

Sec. 6. G.S. 54-109.60 is stricken in its entirety.

Sec. 7. G.S. 54-109.82 is amended by adding at the end thereof the following:

"(11) In the College Foundation in any amount not to exceed ten percent (10%) of the shares and unimpaired surplus of the investing credit union."

Sec. 8. G.S. 54-109.88 is amended by adding at the end thereof the following:

"(15) Investments in the College Foundation."

Sec. 9. G.S. 54-109.92(d) is rewritten to read as follows:

"(d) If the administrator, after issuing notice of suspension and providing an opportunity for a hearing, rejects the credit union's plan to continue operations, he may appoint an operating officer or trustee to correct the conditions causing the order of suspension, or he may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union may request the appropriate court to stay execution of such action. Involuntary liquidation may not be ordered prior to the conclusion of suspension procedures outlined in this section."

Sec. 10. The administrator of credit unions shall establish rules and regulations relating to selection of attorneys at law to handle credit union loan closing proceedings.

Sec. 11. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

H. B. 990 CHAPTER 560

AN ACT TO MAKE AMENDMENTS TO THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-286(6) is rewritten to read as follows:

"(6) 'Established place of business' means a salesroom containing at least 96 square feet of floor space in a permanent enclosed building; said salesroom shall have displayed thereon or immediately adjacent thereto a sign, in block letters not less than three inches in height on contrasting background, clearly and distinctly designating the trade name of the business at which a permanent business of bartering, trading and selling motor vehicles will be carried on as such in good faith and at which place of business shall be kept and maintained the books, records and files as the division may require necessary to conduct the business at such place. Provided, however, the minimum area requirement provided for in this paragraph is not applicable to any established place of business lawfully in existence and duly licensed on or before January 1, 1978."

Sec. 2. G.S. 20-288 is amended by adding a new subsection at the end thereof as follows:

"(e) Each applicant approved by the division for license as a motor vehicle dealer, manufacturer, distributor branch, or factory branch shall furnish a corporate surety bond or cash bond or fixed value equivalent thereof in the principal sum of fifteen thousand dollars ($15,000) and an additional principal sum of five thousand dollars ($5,000) for each additional place of business within this State at which motor vehicles are sold. Each application for a license or a renewal of a license shall be accompanied by a list of locations at which the applicant engages in the business of selling motor vehicles in this State. A corporate surety bond shall be approved by the commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article. A cash bond or fixed value equivalent thereof shall be approved by the commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the commissioner. Any purchaser of a motor vehicle who shall have suffered any loss or damage by

any act of a motor vehicle dealer that constitutes a violation of this Article shall have the right to institute an action to recover against such motor vehicle dealer and the surety. Every licensee against whom such action is instituted shall notify the commissioner of the action within 10 days after process is served on the licensee. A corporate surety bond shall remain in force and effect and may not be cancelled by the surety unless the motor vehicle dealer, manufacturer, distributor branch, or factory branch has terminated the operations of its business nor unless its license has been denied, suspended, or revoked under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to the commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period."

Sec. 3. G.S. 20-294(2) is amended in the second line after the citation, "G.S. 20-75", by inserting the citation, "G.S. 20-79".

Sec. 4. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

H. B. 1072 CHAPTER 561

AN ACT TO AMEND THE RETIREMENT LAWS TO PROVIDE THE DEATH BENEFIT FOR MEMBERS FINISHING THE WORK YEAR IN WHICH THEY TURN 65.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5(l), as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by inserting a new paragraph between the second and third paragraphs, to read as follows:

"Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, after attaining age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

H. B. 1077 CHAPTER 562

AN ACT RELATING TO FOREST DEVELOPMENT IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the "Forest Development Act".

Sec. 2. Statement of purpose. (a) The General Assembly finds that:

(1) It is in the public interest of the State of North Carolina to encourage the development of the State's forest resources and the protection and improvement of the forest environment.

(2) Unfavorable environmental impacts, although currently of a local and sporadic nature, are occurring as a result of forest operations. It is in the State's

interest that corrective action be developed now to prevent more serious problems in the future.

(3) Regeneration of potentially productive forest land is a high-priority problem requiring prompt attention and action.

(4) Growing demands on forests and related land resources cannot be met by intensive management of public and industrial forest lands alone.

(b) The purpose of this act is to direct the Secretary of the Department of Natural and Economic Resources to implement a forest development program to:

(1) provide financial assistance to eligible landowners to increase the productivity of the privately owned forests of the State through the application of forest renewal practices;

(2) insure that forest operations in the State are conducted in a manner designed to protect the soil, air, and water resources, including but not limited to streams, lakes and estuaries through actions of landowners on lands for which assistance is sought under provisions in this act;

(3) implement a program of voluntary landowner participation through the use of a forest development fund to meet the above goals.

(c) It is the intent of the General Assembly that in implementing the program under this act, the Secretary will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms and individuals furnishing services and materials needed in the application of practices included in the forest development program.

Sec. 3. Definitions. As used in this act:

(a) "Department" shall mean the Department of Natural and Economic Resources.

(b) "Secretary" shall mean the Secretary of the Department of Natural and Economic Resources.

(c) "Eligible landowner" shall mean a private individual, group, association or corporation owning land suitable for forestry purposes. Where forest land is owned jointly by more than one individual, group, association or corporation, as tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purpose of this act, as one eligible landowner and entitled to receive cost sharing payments as provided herein only once during each fiscal year.

(d) "Eligible lands" shall mean land owned by an eligible landowner.

(e) "Forest development cost sharing payment" shall mean financial assistance to partially cover the costs of implementing approved practices in such amounts as the Secretary shall determine, subject to the limitations of this act.

(f) "Approved practices" shall mean those silvicultural practices approved by the Secretary for the purpose of commercially growing timber through the establishment of forest stands, or of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, and cultivation of established young growth of desirable trees. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such

practices as are developed in the future to insure both maximum forest productivity and environmental protection.

(g) "Approved forest management plan" shall mean the forest management plan submitted by the eligible landowner and approved by the Secretary. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.

(h) "Forest development fund" shall mean the special nonlapsing fund established in the Department of Natural and Economic Resources, designated as the Forest Development Fund, created by Section 8 of this act.

(i) "Forest development assessment" shall mean an assessment on primary forest products from timber severed in North Carolina for the funding of the provisions of this act, as authorized by the General Assembly.

Sec. 4. Powers and Duties. (a) The Secretary shall have the powers and duties to administer the provisions of this act.

(b) The department shall serve as the disbursing agency for funds to be expended from and deposited to the credit of the forest development fund.

(c) Subject to the limitations set forth in Section 8(d) of this act, the Secretary is authorized to employ administrative, clerical and field personnel to support the program created by this act and to compensate such employees from the forest development fund for services rendered in direct support of the program.

(d) The Secretary is authorized to purchase equipment for the implementation of this program from the forest development fund subject to the limitations of Section 8 (e) of this act. All equipment purchases with these funds will be assigned to and used only for the forest development program, except for emergency use in forest fire suppression and other activities relating to the protection of life or property. The forest development fund will be reimbursed from other program funds for equipment costs incurred during such emergency use.

Sec. 5. Administration of cost sharing. The Secretary shall have authority to administer the cost sharing provisions of this act, including but not limited to the following:

(a) Prescribe the manner and requirements of making application for cost sharing funds.

(b) Identify those approved forestry practices as defined in Section 3 (f) which shall be approved for cost sharing under the provisions of this act.

(c) Review periodically the cost of forest development practices and establish allowable ranges for cost sharing purposes for approved practices under varying conditions throughout the State.

(d) Determine, prior to approving forest development cost sharing payments to any landowner, that all proposed practices are appropriate and are comparable in cost to the prevailing cost of those practices in the general area in which the land is located. Should the Secretary determine that the submitted cost of any practice is excessive, he shall approve forest development cost sharing payments based upon an allowable cost established under Section 5 (c).

(e) Determine, prior to approving forest development cost sharing payments, that an approved forest management plan as defined in Section 3 (g) for the eligible land has been filed with the Secretary and that the landowner

has indicated in writing his intent to comply with the terms of such management plan.

(f) Determine, prior to approving forest development cost sharing payments, that the approved practices for which payment is requested have been completed in a satisfactory manner, conform to the approved forest management plan submitted under Section 5(e), and otherwise meet the requirements of this act.

(g) Disburse from the forest development fund to eligible landowners cost sharing payments for satisfactory completion of practices provided for by this act and the Secretary shall, insofar as is practicable, disburse the funds from the State's appropriation on a matching basis with the funds generated by the Primary Forest Product Assessment.

Sec. 6. Limitation of payments. (a) An eligible landowner may receive forest development cost sharing payments for satisfactory completion of approved practices as determined by the Secretary, except that the Secretary shall approve no assistance in an amount exceeding the lesser of (i) a sum equal to sixty percent (60%) of the landowner's actual per acre cost incurred in implementing the approved practice or (ii) a sum equal to sixty percent (60%) of the prevailing per acre cost as determined by the Secretary under Section 5(c) for implementing that approved practice.

(b) The maximum amount of forest development cost sharing funds allowed to any landowner in one fiscal year will be the amount required to complete all approved practices on one hundred acres of land at the prevailing cost sharing rate established under Section 6(a).

(c) Eligible landowners may not use State cost sharing funds if funds from any federal cost sharing program are used on the same acreage for forestry practices during the same fiscal year.

Sec. 7. Participation by government political subdivisions. No governmental agency, federal, State or local, will be eligible for forest development payments under the provision of this act.

Sec. 8. Forest development fund. (a) There is hereby created in the Department of Natural and Economic Resources a fund to be designated the forest development fund, for which fiscal management and responsibility are hereby vested in the Secretary.

(b) This fund shall be the depository for all revenue derived from the forest development assessment on primary forest product processors as authorized by the General Assembly, and for any funds appropriated specifically for the forest development program from the General Fund. Those funds appropriated from the General Fund remaining in the forest development fund at the end of any fiscal year shall revert to the General Fund, but revenues derived from the forest development assessment shall not revert but shall remain in the forest development fund until expended under the provisions of this act.

(c) In any fiscal year, expenditures from the forest development fund shall be limited to three times the amount of the General Fund appropriation for that year.

(d) In any fiscal year, no more than five percent (5%) of the available funds generated by the Primary Forest Product Processor Assessment Act shall be used for program support under the provisions of Section 4(c) of this act.

(e) Funds used for the purchase of equipment under the provisions of Section 4(d) of this act shall be limited to appropriations from the General Fund to the forest development fund designated specifically for equipment purchase.

Sec. 9. Severability. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the application of such provision to other persons or circumstances, and the remainder of this act, shall not be affected thereby.

Sec. 10. Effective date. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

H. B. 1172 CHAPTER 563

AN ACT TO ALTER THE AUTHORITY OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA WITH RESPECT TO THE LICENSING OF DEGREE-GRANTING EDUCATIONAL INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-15(a) is amended by striking from line 2 thereof the date "April 15, 1923" and inserting in lieu thereof the date "December 31, 1960".

Sec. 2. G.S. 116-15(b) is amended by striking from line 3 thereof the date "April 15, 1923" and inserting in lieu thereof the date "December 31, 1960".

Sec. 3. G.S. 116-15(a) is amended by inserting therein, between the present first and second sentences of that subsection, the following new sentence:

"For the purposes of this section, the term 'created or established in this State' or 'established in this State' shall mean, in the case of an institution whose principal office is located outside of North Carolina, the act of issuance by the Secretary of State of North Carolina of a certificate of authority to do business in North Carolina."

Sec. 4. G.S. 116-15(e) is amended to read as follows:

"(e) the foregoing provisions of this section shall not apply to any seminary, Bible school, Bible college, or similar religious institution."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

H. B. 1221 CHAPTER 564

AN ACT TO AMEND G.S. 135-6 TO INCREASE THE MEMBERSHIP OF THE BOARD OF TRUSTEES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OF NORTH CAROLINA AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON RETIREMENT SYSTEMS MATTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-6(b), as the same appears in the 1975 Cumulative Supplement to the General Statutes, is hereby amended by striking out the number "12" in the first sentence and inserting in lieu thereof the number "13";

and further amended by striking out the number "Eight" in the first sentence of subdivision (3) and inserting in lieu thereof the number "Nine"; and further amended by deleting in line 10 of subdivision (3) the words "or State employee"; and further amended by adding after the semicolon in line 12 of subdivision (3) the words "one shall be a retired State employee who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1977, and quadrennially thereafter;".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

S. B. 20 CHAPTER 565

AN ACT TO ALLOW THE KEEPING OF A CERTAIN BLACK BEAR IN CARTERET COUNTY BY EXEMPTING THE PERSON WHO KEPT THIS BLACK BEAR PRIOR TO JULY 1, 1975, FROM ARTICLE 2 of G.S. CHAPTER 19A.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of G.S. Chapter 19A, Article 2, to the contrary, the person who kept the male black bear identified with the permanent and indelible tattoo "AB12" on the inside of his lower lip in captivity in Carteret County prior to July 1, 1975, shall be allowed to continue to keep this particular bear in Carteret County as long as he provides a reasonably sanitary and humane facility for the bear as determined by periodic inspection by agents of the Wildlife Resources Commission.

Sec. 2. This act shall apply only to the specifically identified male black bear living in Carteret County and it shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

S. B. 346 CHAPTER 566

AN ACT TO INCREASE THE FEE FOR REPLACING LOST CERTIFICATES OF MOTORBOAT NUMBER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-5 is hereby amended by striking out the words and figures "fifty cents (50¢)" at the end of the second sentence of subsection (c) and inserting in lieu thereof the words and figures "one dollar ($1.00)".

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

S. B. 655

CHAPTER 567

AN ACT AUTHORIZING THE PITT COUNTY BOARD OF COMMISSIONERS TO HOLD A REFERENDUM OF THE ELECTORATE OF PITT COUNTY TO DETERMINE WHETHER PITT COUNTY TECHNICAL INSTITUTE SHOULD BE CONVERTED TO A COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

Section 1. The Pitt County Board of Commissioners is authorized, in its discretion, to hold an election in Pitt County at the earliest date permissible on the question of converting Pitt Technical Institute to a community college. At the election on the question of conversion, the ballot furnished the qualified voters of Pitt County will be worded substantially as follows:

"In favor of converting Pitt Technical Institute to a community college" and "Against converting Pitt Technical Institute to a community college".

Sec. 2. The Pitt County Board of Commissioners shall have the authority to appropriate, and if necessary levy taxes, to pay for the expense of calling said election."

Sec. 3. It is the intent of the General Assembly that the provisions of this act shall in no way abrogate, change, or alter the requirements of G.S. 115A-4.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

H. B. 467

CHAPTER 568

AN ACT TO REWRITE PORTIONS OF CHAPTER 122 OF THE GENERAL STATUTES OF NORTH CAROLINA DEALING WITH AREA MENTAL HEALTH PROGRAMS AND TO REPEAL ARTICLES 2A, 2C, and 2E of G.S. CHAPTER 122 WHICH DEAL WITH CURRENT LOCAL MENTAL HEALTH AND AREA MENTAL HEALTH PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 122 of the General Statutes of North Carolina to read as follows:

"ARTICLE 2F.

"Area Mental Health Programs.

"PART 1.

"Policy Statement; Definitions.

"§ 122-35.35. *Declaration of policy.*—Providing community mental health services of the highest possible quality within available resources is an obligation of government in North Carolina to its citizens. The furnishing of such services requires the cooperation and financial assistance of county, State and federal governments.

In order to maximize mental health services and to maximize utilization of federal funds, area mental health authorities are urged to comply to the maximum extent possible with federal governmental regulations required as a condition of receipt of federal grants.

In order to provide comprehensive mental health services to all citizens at a reasonable cost, the area mental health authority shall make every reasonable

effort to collect appropriate reimbursement for its cost in providing such services based upon the ability of the person to pay except where prohibited by policy or law; however, no one shall be refused mental health services because of an inability to pay.

To insure accountability where such services are rendered, the governing board of the area mental health program shall be selected by the county commissioners in the area where such services are to be administered.

"§ 122-35.36. *Definitions.*—For the purposes of this Article, the following definitions shall apply:

(1) Area mental health authority. The governing unit authorized by the Commission for Mental Health Services and delegated the authority to serve as the comprehensive planning, budgeting, implementing, and monitoring group for community-based mental health, mental retardation, and substance abuse programs. An area mental health authority is a local political subdivision of the State except that a single-county area mental health authority shall be considered a department of the county in which it is located for the purposes of Chapter 159 of the General Statutes.

(2) Area mental health board. A group of persons appointed by the county commissioners pursuant to the provisions of this Article to serve as the governing body of the area mental health authority.

(3) Area mental health facility. A mental health facility, public or private, established to serve the needs of a designated catchment area in mental health, mental retardation, or substance abuse.

(4) Catchment area. A population base sufficient to secure federal funding under existing federal legislation as it applies to mental health services.

(5) Commission for Mental Health Services. A citizen board designated by State statute to set minimum standards for the operation of State and area mental health, mental retardation, and substance abuse programs.

(6) Department of Human Resources. The unit of State government authorized to implement, administer, and monitor community-based programs in cooperation with local governmental authorities; such unit is hereinafter referred to as department.

(7) Medical doctor. A person licensed to practice medicine in North Carolina, including a doctor of medicine specializing in the field of psychiatry.

(8) Mental health programs. Sets of activities designed to meet the service needs of citizens. Mental health program or mental health programs refers to programs of general mental health, mental illness, mental retardation, substance abuse, and related fields.

(9) Minimum standards. Specifications of the required basic level of activity and required basic levels of human and technical resources necessary for the implementation and operation of mental health programs. Minimum standards are set by the Commission for Mental Health Services in all areas of mental health not otherwise specified in State statutes and such standards shall be administered by the Department of Human Resources.

(10) Operating costs. Expenditures made by an area mental health authority in the delivery of community mental health services in the areas of general mental health, mental illness, mental retardation, and substance abuse. Such operating costs shall include the employment of legal counsel on a temporary basis to represent the interest of the area mental health authority.

(11) Qualified professional. Any person with appropriate training or experience in the professional fields of mental health care, mental illness, mental retardation, or substance abuse, including but not limited to medical doctors, psychiatrists, psychologists, social workers, and registered nurses.

(12) Substance abuse. Self-abusive use of substances, including, but not limited to, alcoholism and drug abuse.

"PART 2.

"Authorization of Area Mental Health Services.

"§ 122-35.37. *Mental health services.*—The Department of Human Resources is directed to establish community-based programs of mental health services within catchment areas specified by the Commission for Mental Health Services. The provision of services shall be a joint undertaking of the department and the area mental health authority. The mental health services programs shall be developed by coordinating resources, personnel, and facilities of the area mental health authorities and of the Department of Human Resources, pursuant to this Article. Mental health services shall include, but not be limited to, programs for:

(1) general mental health, mental disorder, and mental health education;

(2) mental retardation; and

(3) substance abuse.

Such mental health service programs shall include, but need not be limited to, treatment and preventive services.

"§ 122-35.38. *Designation of Department of Human Resources as the State Mental Health Authority.*—The Department of Human Resources is hereby designated as the State Mental Health Authority for purposes of administering federal funds allotted to North Carolina and State funds allotted to the department pertaining to mental health activities. The Department of Human Resources is further designated as the State agency authorized to administer minimum standards and requirements for mental health services as conditions for participation in federal-State financial aid, and is authorized to promote and develop community mental health services in accordance with the provisions of this Chapter. The Department of Human Resources shall be responsible for administrating minimum standards for area mental health programs.

Nothing in this Chapter shall be construed to prohibit the operation of mental health service programs by the Department of Human Resources at any of the institutions under the control of the Department of Human Resources, or the operation of mental health service programs at the North Carolina Memorial Hospital in Chapel Hill, or at any other hospital or facility acceptable to the Department of Human Resources.

"§ 122-35.39. *Designation of local governmental units to specify responsible area mental health authority.*—(a) An area mental health authority, with approval of the Department of Human Resources and the Commission for Mental Health Services shall be established by: (1) the board of county commissioners or (2) jointly by two or more boards of county commissioners.

(b) The unit shall be known as an area mental health authority. County commissioners shall appoint the members of an area mental health board who shall thereafter serve at the pleasure of the county commissioners by whom such appointments were made. The area mental health board thus appointed shall be the area mental health authority for the purposes of this Article.

(c) In areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area mental health board. These members shall appoint the other members.

(d) The group of county commissioners authorized to make appointments to the area board shall appoint new members to the area mental health board to fill vacancies occurring on the board prior to the expiration of the appointed term of office. Such appointments shall be for the remainder of the unexpired term of office.

"§ 122-35.40. *Structure of area mental health board.*—(a) The area mental health board shall meet at least six times per year and shall consist of 15 members. However, the number of board members may be increased up to 25 for the purpose of meeting requirements set by federal authorities as a condition to receiving federal aid. Meetings shall be called by the area board chairman or by three or more members of the board after notifying the area board chairman in writing.

(b) The area mental health board shall include:

(1) at least one county commissioner from each county in the area;

(2) at least two persons duly licensed to practice medicine in North Carolina;

(3) at least one representative from the professional field of psychology, or social work, or nursing, or religion;

(4) at least three representatives from local citizen organizations to include one each from those active in areas of substance abuse, mental health, and mental retardation;

(5) at least one representative from local hospitals or area planning organizations;

(6) at least one attorney practicing in North Carolina.

(c) Any member of an area mental health board who is a county commissioner shall be deemed to be serving on the board in an ex officio capacity to his public office. The terms of such members shall be concurrent with their respective terms as public officials. The terms of the other members on the area board shall be for four years, except that upon the initial formation of an area mental health board, one-fourth shall be appointed for one year, one-fourth for two years, one-fourth for three years, and all remaining members for four years. However, nothing contained herein shall prevent the county commissioners from replacing board members at any time pursuant to G.S. 122-35.39.

(d) Members of the Area Mental Health Board are authorized to elect its chairman. The term of office of the area board chairman shall be one year. Nothing in this subsection shall be construed to prohibit a county commissioner area board member from serving as the board chairman.

"§ 122-35.41. *Designation of the Commission for Mental Health Services.*—Standards for services not covered under the provision of this Article may be prescribed by the Commission for Mental Health Services. All community-based mental health, mental retardation, and substance abuse programs must meet or exceed minimum standards and no other standards shall apply unless specifically established in State or federal statutes or regulations. Failure to comply with the established standards shall be grounds for the Department of Human Resources to cease participating in the funding of the particular community-based program. An area mental health authority may appeal for exceptions to the minimum standards to the Commission for Mental Health

Services based upon catchment area needs. Such appeal shall be made pursuant to the procedures set forth in G.S. 122-35.52.

"PART 3.

"Responsibilities of Area Mental Health Authorities.

"§ 122-35.42. *Appropriate local funds.*—County and municipal authorities are authorized to appropriate funds for the support of mental health programs which serve the catchment area regardless of whether the service programs are physically located within the boundaries of a single county or whether any facility housing a service program is owned and operated by the local governmental units. Counties are authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22) and by the allocation of other revenues whose use is not restricted by law.

"§ 122-35.43. *Submit application for service program; annual plan.*—(a) Subject to the standards of the Commission for Mental Health Services, the area mental health authorities shall review and evaluate the area needs and programs in general mental health, mental illness, mental retardation, substance abuse, and related fields, and shall develop with the Department of Human Resources an annual plan for the use, control, and development of State, regional, and area facilities and resources in order to provide a comprehensive program of mental health services for the area residents.

(b) The annual plan of work shall include an inventory of existing services, services to be provided during the next fiscal year, and projected services during the following year, including, but not limited to, service plans for the mentally ill, mentally retarded, and substance abuser. The annual plan shall indicate the expenditure of all State, local, and federal funds for each service according to the source of the fund. The annual plan of each area authority shall include a plan for contracting with the State mental hospital, center for the mentally retarded, and alcoholic rehabilitation center where such facilities are available. Before State funds are provided to area mental health authorities, such annual plans and subsequent changes shall be subject to approval by the Department of Human Resources.

"§ 122-35.44. *Report to the department and county commissioners.*—(a) On a periodic basis, specified by the Department of Human Resources, each area mental health authority shall provide the Department of Human Resources and county commissioners with:

(1) A budget report which indicates receipt and expenditure for the total area mental health program according to a reporting format prescribed by the department. This format shall conform as nearly as practical to the recommended budget format of the Local Government Commission under the provisions of the Local Government Fiscal Control Act.

(2) An audit report prepared by an independent certified public accounting firm, which such audit report may be made by the county independent certified public accountant as a part of the county's normal annual audit, if satisfactory to the department.

(b) The Department of Human Resources can require reports of activities and services of the area mental health authority but such reports shall not identify names of individual clients of the local mental health programs unless specifically required by State statute or federal rules and regulations. A copy of

all reports required by the Department of Human Resources shall be sent to the county commissioners.

(c) Beginning on July 1, 1977, and at least biannually thereafter, reports required of the area mental health authority by the department shall be reviewed by the Department of Human Resources and only those reports deemed necessary by the department shall thereafter be required.

(d) The department may delay payments and with written notification of cause may reduce or deny payment of funds if an area mental health authority fails to file required reports within the time limit set by the department.

"§ 122-35.45. *Personnel.*—(a) Technical and professional standards. Subject to the standards of the Commission for Mental Health Services, the area mental health authority shall establish technical and professional standards which must be approved by the Department of Human Resources. Such standards shall not nullify compliance with provisions of the classification plan and State Competitive Service policies.

(b) Area mental health authority employees. Employees under the direct supervision of the area mental health authority are employees of the area mental health authority and for the purpose of personnel administration, Chapter 126 of the General Statutes shall apply unless otherwise provided in this Article.

(c) Appointment of area mental health director. The area board shall appoint, with the approval of the Department of Human Resources, an area mental health director. The area mental health director shall be the employee of the area board and shall serve at the pleasure of the area board. The director shall be responsible for the appointment of staff, for implementation of the policies and programs of the board, compliance with standards of the Commission for Mental Health Services, and for the supervision of all staff and service programs.

(d) Supervision of services. Unless otherwise specified, services shall be the responsibility of a qualified professional with approved training and experience acceptable to the Department of Human Resources as prescribed by regulations of the Commission for Mental Health Services. Direct medical and psychiatric services shall be provided by a duly qualified psychiatrist or an individual duly licensed by the State of North Carolina as a medical doctor with adequate training and experience acceptable to the Department of Human Resources.

"§ 122-35.46. *Salary plans for area mental health employees.*—A salary plan for area mental health employees shall be set by the area mental health authority. Such salary plan shall be established in conformity with G.S. Chapter 126. In a multiple-county area, such salary plan shall not exceed the highest paying salary plan of any county in that area. In a single-county area, such salary plan shall not exceed the county's salary plan. The salary plan limitations set forth in this section may be exceeded only if the area mental health authority and the board or boards of county commissioners, as the case may be, jointly agree to exceed these limitations.

"§ 122-35.47. *Require fee for service.*—The area mental health authority shall make every reasonable effort to collect appropriate reimbursement for its costs in providing mental health services to persons able to pay for service, including insurance or third-party payments. However, no one shall be refused mental health services because of an inability to pay. The area mental health authority will prepare a schedule of fees for its services designed to cover the

reasonable costs of providing such services. All funds collected from fees shall be utilized for the fiscal operation or capital improvement for the area mental health service program and shall not reduce or replace the budgeted commitment of local tax revenue.

"§ 122-35.48. *Limitation of professional reimbursement.*—Area mental health authorities will adopt and enforce a policy (i) under which fees for the provision of services directly under the supervision of the area authority will be paid to the area mental health authority; (ii) under which employees of the area authority are prohibited from providing such services on a private basis which requires the use of the resources and facilities of the area authority; and (iii) under which employees may accept dual compensation and dual employment with a written permission of the area mental health authority.

"§ 122-35.49. *Contract for services.*—The area mental health authority may contract with other public or private agencies, institutions, or resources for the provision of services, but it shall be the responsibility of the area mental health authority to insure that such contracted services meet the rules and regulations as set by the Commission for Mental Health Services. Terms of the contract shall require the area mental health authority to monitor the contract to assure that minimum standards are met.

"§ 122-35.50. *Appeal by area mental health authority.*—The area mental health authority may appeal to the Commission for Mental Health Services any departmental action regarding rules and regulations which affects its program or plan for services.

"§ 122-35.51. *Licensing required.*—An area mental health facility operated under the provisions of Chapter 122 of the General Statutes shall obtain a license permitting such operation. Subject to standards governing the operation and licensing of these facilities set by the Commission for Mental Health Services, the Department of Human Resources shall be responsible for issuing licenses.

"§ 122-35.52. *Appeal from the denial or revocation of a license.*—An area mental health facility whose license is revoked or whose license application is denied by the department shall first be given 60 days' written notice specifying the grounds for such revocation or denial. The area mental health authority is entitled, by written request to the commission within the 60-day period of notification, to a hearing before the Commission for Mental Health Services. The hearing shall be held within 20 days of the written request and shall be open to the public. The decision of the commission shall be made within 10 days after such hearing. Any area mental health facility whose license is revoked shall be allowed to continue to operate until the appeal provided by this section is concluded.

"PART 4.

"Appropriation for Mental Health Service Programs.

"§ 122-35.53. *Allocation of all funds to area mental health authorities.*—All State appropriations shall be allocated to area mental health authorities in accordance with the annual plan and budget adopted by the area mental health authority and approved by the Department of Human Resources. However, the area mental health authorities are empowered to receive and allocate non-state resources for the purpose of capital improvements and equipment acquisition as long as such expenditures are made in support of the annual plan of work. The final share of State funds will be allocated on the basis of actual expenses and

reported in a manner prescribed by the department. Unexpended State appropriations will be remitted to the Department of Human Resources within 120 days after the close of the fiscal year.

Unless specified by the Department of Human Resources, State appropriations to area mental health authorities shall be used exclusively for the operating costs of the programs. All real property shall be provided by local or federal funds. Equipment necessary for the operation of such programs shall be provided by local, State, federal, or donated funds or any combination thereof. Title to such real property and the authority to acquire or mortgage same shall be held by the county where such property is located; however, the authority to lease real property shall be held by the area mental health authority. Title to personal property and the authority to acquire, lease, or mortgage same shall be held by the area mental health authority. All community mental health, mental retardation, and substance abuse funds shall be expended in accordance with rules and regulations of the Department of Human Resources and in accordance with the minimum standards set by the Commission for Mental Health Services. Failure to comply with rules, regulations, and minimum standards may be grounds for the Department of Human Resources to cease participation in the funding of the particular mental health program. The department may withdraw funds from a specific program of services not being administered in accordance with an approved plan and budget after written notice and subject to an appeal in accordance with G.S. 122-35.52.

"§ 122-35.54. *Allocation of funds to area mental health authorities.*—Subject to the provisions of this Article allocations shall be made annually by the Department of Human Resources to area mental health authorities for the provision of community-based service programs. Such allocations shall be made in the form of a base grant computed on the basis of five hundred dollars ($500.00) per 1,000 population within the catchment area. Additional allocations may be made to the area mental health authorities on the conditions and formula basis as provided in this Part.

"§ 122-35.55. *Allocation of State matching funds to area mental health authorities.*—State-appropriated matching funds shall be distributed subject to an adopted regulation of the department which sets a formula based upon the counties' relative fiscal capacity to fund mental health services. Such regulations shall be reviewed biannually by the department. Area mental health funds used for matching State funds shall include, but not be limited to, fees from services, fees from agencies under contract, gifts and donations, and county and municipal funds. For the purpose of this section, area financial participation used to match State allocations shall not include State or federal funds.

"§ 122-35.56. *Direct grants for services.*—In addition to the matching grants provided elsewhere in this act, the department shall make direct grants to area mental health authorities from special State and federal funds appropriated for special programs. Such grants shall be for the treatment of persons by community facilities rather than in regional institutions and shall be administered as provided by G.S. 122-35.53 and G.S. 122-35.55.

"§ 122-35.57. *Responsibilities of those receiving State and federally administered appropriations.*—All resources allocated to and received by any area mental health authority and used for programs of mental health, mental

retardation, substance abuse or other related mental health fields are subject to the conditions specified in all Parts of this Article and to the standards of the Commission for Mental Health Services."

Sec. 2. Sub-subdivisions c. and d. of subdivision (2) of G.S. 143B-147, as it appears in 1974 Replacement Volume 3C of the General Statutes, are rewritten to read as follows:

"c. for the establishment and operation of area mental health authorities provided by Article 2F of Chapter 122 of the General Statutes; and

d. for the inspection and licensing of private hospitals for the mentally disordered as provided by G.S. 122-72."

Sec. 3. Sub-subdivision e. of subdivision (2) of G.S. 143B-147 is repealed.

Sec. 4. Articles 2A, 2C, and 2E of Chapter 122 of the General Statutes are repealed.

Sec. 5. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

H. B. 930 CHAPTER 569

AN ACT TO INCLUDE X-RAYS WITHIN THE TYPES OF BUSINESS AND PUBLIC RECORDS WHICH MAY BE DESTROYED AFTER COPIES OF THE RECORDS HAVE BEEN RECORDED ON MICROFILM OR BY ANOTHER PROCESS WHICH ACCURATELY REPRODUCES OR FORMS A DURABLE MEDIUM FOR REPRODUCING THE ORIGINAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-45.1 is hereby amended by adding the phrase ", x-ray" after the word "representation" in line 3 thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

H. B. 1005 CHAPTER 570

AN ACT TO AMEND CHAPTER 74B OF THE GENERAL STATUTES, THE PRIVATE PROTECTIVE SERVICES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74B-15(g), as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is hereby amended by changing the period at the end thereof to a semicolon and adding thereto the following:

"provided further that nothing in this section shall be construed to prohibit the holder of a company police commission under Chapter 74A of the General Statutes from being licensed under this Chapter, or being employed by a licensee under this Chapter."

Sec. 2. G.S. 74B-10(b)(5), as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is hereby amended by changing the period at the end of the first sentence of that subsection to a semicolon and placing the word "and" after the semicolon. G.S. 74B-10(b)(5) is further amended by striking therefrom the words:

"At least one of such persons must be a judge or district attorney of a court of record in the county of applicant's last known residence and one such person

must be a municipal chief of police or county sheriff in the county of the applicant's last known residence; and".

Sec. 3. Chapter 74B of the General Statutes is hereby amended by adding thereto a new Section 74B-13.1 which reads as follows:

"§ 74B-13.1. *Temporary employment of person licensed in another state.*— Notwithstanding the provisions of G.S. 74B-13, a person licensed in accordance with this Chapter may employ a person properly registered or licensed as a security guard in another state for a period not to exceed 10 days in any given month, provided such licensee, prior to employing such guard, submits to the administrator the name, address and Social Security number of such guard and the administrator approves the employment."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

H. B. 1054 CHAPTER 571

AN ACT TO AMEND ARTICLE 4, CHAPTER 114 OF THE GENERAL STATUTES TO PROVIDE FOR PROTECTION OF PUBLIC OFFICIALS IN CERTAIN INSTANCES BY THE NORTH CAROLINA STATE BUREAU OF INVESTIGATION.

The General Assembly of North Carolina enacts:

Section 1. Article 4, Chapter 114 of the General Statutes is hereby amended by adding a new section thereto, to read as follows:

"The North Carolina State Bureau of Investigation is authorized to provide protection to public officials who request it, and who, in the discretion of the Director of the Bureau with the approval of the Attorney General, demonstrate a need for such protection. The bureau shall not provide protection for any individual other than the Governor for a period greater than 30 days without review and reapproval by the Attorney General. This review and reapproval shall be required at the end of each 30-day period."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

H. B. 1075 CHAPTER 572

AN ACT TO AMEND G.S. 20-81.2 TO FURTHER DEFINE REQUIREMENTS OF SPECIAL LICENSE PLATES FOR HISTORIC VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81.2 is hereby amended on line 6 of the first paragraph by deleting the words "Horseless Carriage," and inserting in lieu thereof the words "Antique Auto,".

Sec. 2. G.S. 20-81.2 is hereby amended after the first paragraph ending with the words "motor vehicles" by inserting a new paragraph to read as follows:

"Notwithstanding any other provisions of this Chapter, a special permanent license plate shall be issued upon application of the owner of any motor vehicle of the age of 50 years or older from the date of manufacture. On the plate there

shall be printed the words "Horseless Carriage" in addition to the other requisites established by the Commissioner of Motor Vehicles. The sole fee for the issuance of this permanent license plate shall be fifteen dollars ($15.00). All other provisions of this Chapter not inconsistent herewith shall be applicable to such motor vehicles."

Sec. 3. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

H. B. 1076 CHAPTER 573

AN ACT RELATING TO PRIMARY FOREST PRODUCT ASSESSMENT.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known as the Primary Forest Product Assessment Act.

Sec. 2. Statement of purpose. (a) The purpose of this act is to create an assessment on primary forest products processed from North Carolina timber to provide a source of funds to finance the forestry operations provided for in the Forest Development Act of 1977.

(b) All assessments levied under the provisions of this act shall be used only for the purposes specified in this act (Section 5c) and in the Forest Development Act.

Sec. 3. Definitions. The following words, terms and phrases hereinafter used for the purpose of this act are defined as follows:

(a) "Primary forest product" shall include those products of the tree after it is severed from the stump and cut to its first roundwood product for further conversion. These products include but are not limited to whole trees for chipping, whole tree logs, sawlogs, pulpwood, veneer bolts, and posts, poles and piling.

(b) "Processor" shall mean the individual, group, association, or corporation that procures primary forest products at their initial point of concentration for conversion to secondary products or for shipment to others for such conversion.

(c) "Forest Development Fund" shall mean the special fund established by the Forest Development Act of 1977.

(d) For the purpose of this act, the following are not considered "primary forest products":

(1) Christmas trees and associated greens;

(2) material harvested from an individual's own land and used on said land for the construction of fences, buildings or other personal use developments;

(3) fuel wood harvested for personal use or use in individual homes.

Sec. 4. Operation of the assessment system. (a) The General Assembly hereby levies an assessment on all primary forest products harvested from lands within the State of North Carolina.

(b) This assessment shall be at the rates as established in Section 6(b) of this act and the proceeds of such assessment shall be deposited in the Forest Development Fund.

(c) The collection of the assessment shall be suspended in any fiscal year in which the General Assembly fails to make General Fund appropriations to the Forest Development Fund.

(d) The collection of the assessment shall be suspended in any fiscal year in which there is carried forward from previous years a balance of unobligated funds in the Forest Development Fund greater than twice the amount appropriated from the General Fund for that fiscal year.

(e) If the assessment is suspended because of either clause (c) or (d) above, that suspension shall cease when the condition causing the suspension no longer exists.

Sec. 5. Duties of the secretaries. (a) The Secretary, Department of Revenue, shall:

(1) develop the necessary administrative procedures to collect the assessment;

(2) collect the assessment from the primary forest product processors;

(3) deposit funds collected from the assessment in the Forest Development Fund;

(4) audit the records of processors to determine compliance with the provisions of this act.

(b) The Secretary, Department of Natural and Economic Resources shall:

(1) provide to the Secretary, Department of Revenue, lists of processors subject to the assessment;

(2) advise the Secretary, Department of Revenue, of the appropriate methods to convert measurements of primary forest products by other systems to those authorized in this act;

(3) establish in November prior to those sessions in which the General Assembly considers the State budget, the estimated total assessment that will be collectable in the next budget period and so inform the Advisory Budget Commission and the General Assembly;

(4) within 30 days of certification of the State budget, notify the Secretary, Department of Revenue, of the need to collect the assessment for those years covered by the approved budget.

(c) The Secretary, Department of Revenue, shall be reimbursed for those actual expenditures incurred as a cost of collecting the assessment for the Forest Development Fund. This amount shall be transferred from the Forest Development Fund in equal increments at the end of each quarter of the fiscal year to the Department of Revenue. This amount shall not exceed fifty thousand dollars ($50,000), annually.

Sec. 6. Assessment rates. (a) The assessment rates shall be based on the following standards:

(1) for primary forest products customarily measured in board feet, the "International 1/4 Inch Log Rule" or equivalent will be used;

(2) for primary forest products customarily measured in cords, the standard cord of 128 cubic feet or equivalent will be used;

(3) for any other type of forest product separated from the soil, the Secretary, Department of Natural and Economic Resources shall determine a fair unit assessment rate, based on the cubic foot volume of one thousand foot board measure, International 1/4 Inch Log Rule or one standard cord, 128 cubic feet.

(b) The assessment levied on primary forest products shall be at the following rates:

(1) fifty cents (50¢) per thousand board feet for softwood sawtimber, veneer logs and bolts, and all other softwood products normally measured in board feet;

(2) forty cents (40¢) per thousand board feet for hardwood and bald cypress sawtimber, veneer, and all other hardwood and bald cypress products normally measured in board feet;

(3) twenty cents (20¢) per cord for softwood pulpwood and other softwood products normally measured in cords;

(4) twelve cents (12¢) per cord for hardwood pulpwood and other hardwood and bald cypress products normally measured in cords;

(5) all material harvested within North Carolina for shipment outside the State for primary processing will be assessed at a percentage of the invoice value. This percentage will be established to yield rates equal to those if the material were processed within the State.

Sec. 7. Collection of Assessment. (a) The assessment shall be levied against the processor of the primary forest product.

(b) The assessment shall be submitted on a quarterly basis of the State's fiscal year due and payable the 25th of the month following the end of each quarter.

(c) The assessment shall be remitted to the Secretary, Department of Revenue, by check or money order, with such production reports as may be required by said secretary.

(d) The processor shall maintain for a period of three fiscal years and make available to the Secretary, Department of Revenue, such production records necessary to verify proper reporting and payment of revenue due the Forest Development Fund.

(e) The production reports of the various processors shall be used only for assessment purposes. Production information will not be made a part of the public record on an individual processor basis.

(f) Any official or employee of the State who discloses information obtained from a production report, except as may be necessary for administration and collection of the assessment, or in the performance of official duties, or in administration or judicial proceedings related to the levy or collection of the assessment, shall be guilty of a misdemeanor punishable by a fine not to exceed fifty dollars ($50.00).

Sec. 8. Enforcement. The Secretary of Revenue shall enforce collection of the primary forest product assessment in accordance with the remedies and procedures contained in Article 9 of Chapter 105 of the General Statutes.

Sec. 9. Severability. If any provision of this act, or the application of any provision of this act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this act, shall not be affected thereby.

Sec. 10. Effective date. This act shall become effective July 1, 1977, and all North Carolina grown primary forest products processed on and after that date shall be subject to this assessment.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

S. B. 109 **CHAPTER 574**

AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES TO PROVIDE FOR THE INCLUSION OF EMPLOYEES OF THE NORTH CAROLINA ART SOCIETY IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-1 is hereby amended by adding a new phrase at the end of subdivision (10) after the words "Society, Inc." the words "and of the North Carolina Art Society, Inc.".

G.S. 135-1 is further amended by adding a new phrase at the end of subdivision (11) after the words "Society, Inc." the words "and the North Carolina Art Society, Inc.".

Sec. 2. The Retirement System coverage for employees of the North Carolina Art Society, Inc., provided in Section 1 of this act is conditional upon payment by the North Carolina Art Society, Inc., of all of the employer's contributions or matching funds from funds of the said society, other than funds from the State of North Carolina, and on the said society's collecting from its employees the employees' contributions, at such rates as may be fixed by law and by the regulations of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Any retroactive coverage of the employees of the North Carolina Art Society, Inc., for service prior to the effective date of this act may be affected only to the extent that the said society pays all of the employer's contributions or matching funds necessary for such purpose and provided the said society collects from its employees all employees' contributions necessary for such purpose, computed at such rates and in such amount as the Board of Trustees of the Retirement System determines, all of such funds to be paid to the Retirement System, together with such interest as may be due, and placed in the appropriate funds.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

S. B. 233 **CHAPTER 575**

AN ACT TO AMEND G.S. 159-30(c)(5) TO ALLOW INVESTMENT OF IDLE FUNDS OF LOCAL GOVERNMENTS IN SAVINGS AND LOAN ASSOCIATIONS AS LONG AS INVESTMENTS ARE FULLY SECURED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-30(c)(5) is amended by adding a sentence to the end of the current G.S. 159-30(c)(5) to read as follows:

"Provided, that moneys may be invested in said certificates, shares or deposits, whether or not so insured, to the extent that said moneys are fully secured by surety bonds, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

S. B. 350 **CHAPTER 576**

AN ACT TO AMEND G.S. 6-21 RELATING TO COSTS IN CIVIL ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 6-21, as it appears in 1969 Replacement Volume 1B of the General Statutes, is amended in subdivision (1) by deleting the word "widow" and substituting therefor the words "surviving spouse"; and, G.S. 6-21 is further amended in subdivision (4) by deleting the words and punctuation "the wife, either by the husband or by her from her separate estate" and substituting therefor the words "either spouse from the sale and separate estate of either spouse".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

S. B. 354 **CHAPTER 577**

AN ACT TO REWRITE G.S. 14-46 RELATING TO CONCEALING THE BIRTH OF A CHILD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-46, as it appears in 1969 Replacement Volume 1B of the General Statutes, is rewritten to read as follows:

"§ 14-46. *Concealing birth of child.*—If any person shall, by secretly burying or otherwise disposing of the dead body of a newborn child, endeavor to conceal the birth of such child, such person shall be guilty of a felony and punished by fine or imprisonment, or both, in the discretion of the court. Any person aiding, counseling or abetting any other person in concealing the birth of a child in violation of this statute shall be guilty of a misdemeanor."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

S. B. 544 **CHAPTER 578**

AN ACT TO AMEND ARTICLE 7A OF CHAPTER 54 OF THE GENERAL STATUTES, RELATING TO MUTUAL DEPOSIT GUARANTY ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-44.8 is amended by adding at the end thereof the following:

"(9) Make or cause to be made examinations or audits of member institutions."

Sec. 2. G.S. 54-44.10 is rewritten in its entirety to read as follows:

"In addition to any and all other powers, duties and functions vested in the administrator under the provisions of this Article, and for the protection of member institutions and the general public, the administrator shall have general control and supervision over all guaranty associations doing business in this State. Guaranty associations shall be subject to the control and supervision of the administrator as to their conduct, organization, management, business

practices reserve requirements and their financial and fiscal matters. Such control and supervision is subject to the provisions of G.S. 54-24.1(c).

The administrator shall have the right, and is hereby empowered, to issue rules and regulations whenever he deems it necessary for the administration of this Article as well as rules and regulations with respect to:

(1) types of financial records to be maintained by guaranty associations;

(2) retention periods of various financial records;

(3) internal control procedures of guaranty associations;

(4) conduct and management of guaranty associations;

(5) reports which may be required by the administrator.

It shall be the duty of the board of trustees of the guaranty association to put into effect and to carry out such rules and regulations.

At least once each year the administrator shall make or cause to be made an examination into the affairs of each guaranty association doing business in this State. The Administrator of the Credit Union Division of this State, in his capacity as supervisor of State chartered credit unions, if he deems it necessary, may designate agents to participate in such examination. The expenses of such yearly examination shall be paid by the guaranty association so examined."

Sec. 3. G.S. 54-44.11 is rewritten to read as follows:

"Whenever the administrator deems it necessary, he may make or cause to be made a special examination or audit of any guaranty association doing business in this State in addition to the regular examination provided for by this Article. The expense of a special examination or audit shall be paid by the guaranty association so examined."

Sec. 4. Article 7A of Chapter 54 of the General Statutes is amended by adding at the end thereof a new section as follows:

"§ 54-44.14. The administrator shall have the right, and is hereby empowered, to require the board of directors or trustees of any guaranty association to immediately remove from office any officer, director, trustee, or employee of any guaranty association doing business in this State, who shall be found by the administrator to be dishonest, incompetent, or reckless in the management of the affairs of the guaranty association, or in violation of the lawful orders, rules and regulations issued by the administrator, or who violates any of the laws set forth in Chapter 54 of the General Statutes of North Carolina."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1977.

H. B. 148 CHAPTER 579

AN ACT TO ABOLISH THE HOUSE MOVERS LICENSING BOARD.

The General Assembly of North Carolina enacts:

Section 1. Article 2C of Chapter 136 of the North Carolina General Statutes is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 276

CHAPTER 580

AN ACT TO PROVIDE FOR THE REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are revised and amended to include a new Chapter to be denominated Chapter 57A and to read as follows:

"CHAPTER 57A.

"§ 57A-1. *Short title.*—This act may be cited as the Health Maintenance Organization Act of 1977.

"§ 57A-2. *Definitions.*

(a) 'Commissioner' means the Commissioner of Insurance.

(b) 'Basic health care services' means health care services which an enrolled population might reasonably require in order to be maintained in good health, including as a minimum, emergency care, inpatient hospital and physician care, and outpatient medical services.

(c) 'Enrollee' means an individual who has been enrolled in a health care plan.

(d) 'Evidence of coverage' means any certificate, agreement, or contract issued to an enrollee setting out the coverage to which he is entitled.

(e) 'Health care plan' means any arrangement whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services and at least part of such arrangement consists of arranging for or the provision of health care services, as distinguished from mere indemnification against the cost of such services on a prepaid basis through insurance or otherwise.

(f) 'Health care services' means any services included in the furnishing to any individual of medical or dental care, or hospitalization or incident to the furnishing of such care of hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

(g) 'Health maintenance organization' means any person who undertakes to provide or arrange for one or more health care plans.

(h) 'Person' means any natural or artificial person including but not limited to individuals, partnerships, associations, trusts, or corporations.

(i) 'Provider' means any physician, hospital, or other person that is licensed or otherwise authorized in this State to furnish health care services.

(j) 'Secretary' means the Secretary of Human Resources.

"§ 57A-3. *Establishment of health maintenance organizations.*—(a) Notwithstanding any law of this State to the contrary, any person may apply to the commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this act. No person shall establish or operate a health maintenance organization in this State, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a health maintenance organization without obtaining a certificate of authority under this act. A foreign corporation may qualify under this act, subject to its registration to do business in this State as a foreign corporation under Article 17 of Chapter 58.

(b)(1) Not withstanding anything contained in this act to the contrary, any

person providing health services on a prepaid basis on July 1, 1977, shall, for purposes of this act, be deemed to be providing 'basic health care services' as defined in paragraph (b) of G.S. 57A-2 notwithstanding the fact that such person does not provide for inpatient hospital and physician care or care of a less comprehensive nature than as otherwise herein described. It is specifically the intention of this section to permit such persons to continue in operation in the manner in which they have heretofore operated without being required to provide the full range of 'basic health care services' as described in subsection (b) of G.S. 57A-2.

(2) Notwithstanding anything contained in this act to the contrary, any person providing health services on a prepaid basis on July 1, 1977, who has been providing services on a fee-for-services basis to persons who are not enrollees of the organization may continue to do so provided that the volume of services provided in this manner shall not be such as to affect the ability of the health maintenance organization to provide on an adequate and timely basis those services to its enrolled members which it has contracted to furnish under the enrollment contract.

(3) Notwithstanding anything contained in the act to the contrary, any person receiving federal funds under Section 254c of Title 42 of the United States Code as a 'community health center', as therein defined, shall, for purposes of this act, be deemed to be providing 'basic health care services' as defined in paragraph (b) of Section 57A-2 notwithstanding the fact that such person does not provide for inpatient hospital and physician care or care of a less comprehensive nature than as otherwise herein described.

(4) This act shall not apply to any employee benefit plan to the extent that the Federal Employee Retirement Income Security Act of 1974 preempts State regulation thereof.

(5) Except as provided in paragraphs (1), (2), (3) and (4) of this subsection, the persons to whom these paragraphs are applicable shall be required to comply with all provisions contained in this act.

(c) Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the commissioner, and shall be set forth or be accompanied by the following:

(1) a copy of the basic organizational document, if any, of the applicant such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(2) a copy of the bylaws, rules and regulations, or similar document, if any, regulating the conduct of the internal affairs of the applicant;

(3) a list of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation, and the partners or members in the case of a partnership or association;

(4) a copy of any contract made or to be made between any providers or persons listed in paragraph (3) and the applicant;

(5) a statement generally describing the health maintenance organization, its health care plan or plans, facilities, and personnel;

(6) a copy of the form of evidence of coverage to be issued to the enrollees;

(7) a copy of the form of the group contract, if any, which is to be issued to employers, unions, trustees, or other organizations;

(8) financial statements showing the applicant's assets, liabilities, and sources of financial support. If the applicant's financial affairs are audited by independent certified public accountants, a copy of the applicant's most recent regular certified financial statement shall be deemed to satisfy this requirement unless the commissioner directs that additional or more recent financial information is required for the proper administration of this act;

(9) a description of the proposed method of marketing the plan, a financial plan which includes a three-year projection of the initial operating results anticipated, and a statement as to the sources of working capital as well as any other sources of funding;

(10) a power of attorney duly executed by such applicant, if not domiciled in this State, appointing the commissioner and his successors in office, and duly authorized deputies, as the true and lawful attorney of such applicant in and for this State upon whom all lawful process in any legal action or proceeding against the health insurance maintenance organization on a cause of action arising in this State may be served;

(11) a statement reasonably describing the geographic area or areas to be served;

(12) a description of the complaint procedures to be utilized as required under G.S. 57A-22;

(13) a description of the procedures and programs to be implemented to meet the quality of health care requirements in G.S. 57A-4(a)(2);

(14) a description of the mechanism by which enrollees will be afforded an opportunity to participate in matters of policy and operation under G.S. 57A-6(b);

(15) such other information as the commissioner may require to make the determinations required in G.S. 57A-4.

(d)(1) A health maintenance organization shall, unless otherwise provided for in this act, file a notice describing any modification of the operation set out in the information required by subsection (c). Such notice shall be filed with the commissioner prior to the modification. If the commissioner does not disapprove within 30 days of filing, such modification shall be deemed approved.

(2) The commissioner may promulgate rules and regulations exempting from the filing requirements of paragraph (1) those items he deems unnecessary.

"§ 57A-4. *Issuance of certificate of authority.*-

(a)(1) Upon receipt of an application for issuance of a certificate of authority, the commissioner shall forthwith transmit copies of such application and accompanying documents to the Secretary of Human Resources.

(2) The secretary shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

a. has demonstrated the willingness and potential ability to assure that such health care services will be provided in a manner to assure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service;

b. has arrangements, established in accordance with regulations promulgated by the secretary for an ongoing quality of health care assurance program concerning health care processes and outcomes; and

c. has a procedure, established in accordance with regulations of the secretary to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and such other matters as may be reasonably required by the secretary.

(3) Within 30 days of receipt of the application for issuance of a certificate of authority, the secretary shall certify to the commissioner whether the proposed health maintenance organization meets the requirements of paragraph (2). If the secretary certifies that the health maintenance organization does not meet such requirements, he shall specify in what respects it is deficient.

(b) The commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to Section 57A-3 within 30 days of receipt of the certification from the secretary. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in Section 57A-23 if the commissioner is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations.

(2) The secretary certifies, in accordance with subsection (a), that the health maintenance organization's proposed plan of operation meets the requirements of subsection (a)(2).

(3) The health care plan constitutes an appropriate mechanism whereby the health maintenance organization will effectively provide or arrange for the provision of basic health care services on a prepaid basis, through insurance or otherwise, except to the extent of reasonable requirements for copayments.

(4) The health maintenance organization has on hand as a financial reserve funds equal to at least three months' projected claims and operating expense (except that a health maintenance organization which has received federal grants in an amount equal to the financial reserve required under this subsection for at least two years prior to a current fiscal year and which certifies to the commissioner that it has an application pending for such a grant in a current fiscal year shall be exempt from this requirement), and the health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making the determinations required under this subsection, the commissioner may consider:

a. the financial soundness of the health care plan's arrangements for health care services and the schedule of charges used in connection therewith;

b. the adequacy of working capital;

c. any agreement with an insurer, a hospital or medical service corporation, a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the plan;

d. any agreement with providers for the provision of health care services;

e. any surety bond or deposit of cash or securities submitted in accordance with G.S. 57A-14 as a guarantee that the obligations will be duly performed; and

f. any firm commitment of federal funds to the health maintenance organization in the form of a grant, even though such funds have not been paid to the health maintenance organization, provided that the health maintenance organization certifies to the commissioner that such funds have been committed, that such funds are to be paid to the health maintenance organization within a current fiscal year and that such funds may be used directly for operating purposes and for the benefit of enrollees of the health maintenance organization.

(5) The enrollees will be afforded an opportunity to participate in matters of policy and operation pursuant to G.S. 57A-6.

(6) Nothing in the proposed method of operation, as shown by the information submitted pursuant to Section 57A-3 or by independent investigation, is contrary to the public interest.

(7) Any deficiencies certified by the secretary have been corrected.

(c) A certificate of authority shall be denied only after compliance with the requirements of G.S. 57A-22.

"§ 57A-5. *Powers of health maintenance organizations.*—(a) The powers of a health maintenance organization include, but are not limited to the following:

(1) the purchase, lease, construction, renovation, operation, or maintenance of hospitals, medical facilities, or both, and their ancillary equipment, and such property as may reasonably be required for its principal office or for such other purposes as may be necessary in the transaction of the business of the organization;

(2) the making of loans to a medical group under contract with it in furtherance of its program or the making of loans to a corporation or corporations under its control for the purpose of acquiring or constructing medical facilities and hospitals or in furtherance of a program providing health care services to enrollees;

(3) the furnishing of health care services through providers which are under contract with or employed by the health maintenance organization;

(4) the contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment and administration;

(5) the contracting with an insurance company licensed in this State, or with a hospital or medical service corporation authorized to do business in this State, for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization.

(6) the offering, in addition to basic health care services, of:

a. additional health care services;
b. indemnity benefits, covering out-of-area or emergency services; and
c. indemnity benefits, in addition to those relating to out-of-area and emergency services, provided through insurers or hospital or medical service corporations.

(b)(1) A health maintenance organization shall file notice, with adequate supporting information, with the commissioner prior to the exercise of any power granted in subsections (a)(1) or (2). The commissioner shall disapprove such exercise of power if in his opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. If the commissioner does not disapprove within 30 days of the filing, it shall be deemed approved.

(2) The commissioner may promulgate rules and regulations exempting from the filing requirement of paragraph (1) those activities having a *de minimis* effect.

"§ 57A-6. *Governing body.*—(a) The governing body of any health maintenance organization may include providers, other individuals, or both.

(b) Such governing body shall establish a mechanism to afford the enrollees an opportunity to participate in matters of policy and operation through the establishment of advisory panels, by the use of advisory referenda on major policy decisions, or through the use of other mechanisms.

"§ 57A-7. *Fiduciary responsibilities.*—Any director, officer or partner of a health maintenance organization who receives, collects, disburses, or invests funds in connection with the activities of such organization shall be responsible for such funds in a fiduciary relationship to the enrollees.

"§ 57A-8. *Evidence of coverage and charges for health care services.*-

(a)(1) Every enrollee residing in this State is entitled to evidence of coverage under a health care plan. If the enrollee obtains coverage under a health care plan through an insurance policy or a contract issued by a hospital or medical service corporation, whether by option or otherwise, the insurer of the hospital or medical service corporation shall issue the evidence of coverage. Otherwise, the health maintenance organization shall issue the evidence of coverage.

(2) No evidence of coverage, or amendment thereto, shall be issued or delivered to any person in this State until a copy of the form of the evidence of coverage, or amendment thereto, has been filed with and approved by the commissioner.

(3) An evidence of coverage shall contain:

a. No provisions or statements which are unjust, unfair, inequitable, misleading, deceptive, which encourage misrepresentation, or which are untrue, misleading or deceptive as defined in G.S. 57A-15(a); and

b. A clear and complete statement, if a contract, or a reasonably complete summary, if a certificate of:

1. The health care services and insurance or other benefits, if any, to which the enrollee is entitled under the health care plan;
2. Any limitations on the services, benefits, or kind of benefits, to be provided, including any deductible or copayment feature;
3. Where and in what manner information is available as to how services may be obtained; and

4. The total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan is contributory or noncontributory with respect to group certificates.

5. A clear and understandable description of the health maintenance organization's method of resolving enrollee complaints.

Any subsequent change may be evidenced in a separate document issued to the enrollee.

(4) A copy of the form of the evidence of coverage to be used in this State, and any amendment thereto, shall be subject to the filing and approval requirements of subsection (b) unless it is subject to the jurisdiction of the commissioner under the laws governing health insurance or hospital or medical service corporations in which event the filing and approval provisions of such laws shall apply. To the extent, however, that such provisions do not apply the requirements in subsection (c) shall be applicable.

(b)(1) No schedule of charges for enrollee coverage for health care services, or amendment thereto, may be used in conjunction with any health care plan until a copy of such schedule, or amendment thereto, has been filed with and approved by the commissioner.

(2) Such charges may be established in accordance with actuarial principles for various categories of enrollees, provided that charges applicable to an enrollee shall not be individually determined based on the status of his health. However, the charges shall not be excessive, inadequate, or unfairly discriminatory. A certification, by a qualified actuary, or such other certification as the commissioner deems appropriate, as to the appropriateness of the charges, based upon reasonable assumptions, shall accompany the filing along with adequate supporting information.

(c) The commissioner shall, within a reasonable period, approve any form if the requirements of paragraph (1) are met and any schedule of charges if the requirements of paragraph (2) are met. It shall be unlawful to issue such form or to use such schedule of charges until approved. If the commissioner disapproves such filing, he shall notify the filer. In the notice, the commissioner shall specify the reasons for his disapproval. A hearing will be granted within 30 days after a request in writing by the person filing. If the commissioner does not approve or disapprove any form or schedule of charges within 30 days of the filing of such forms or charges, they shall be deemed approved.

(d) The commissioner may require the submission of whatever relevant information he deems necessary in determining whether to approve or disapprove a filing made pursuant to this section.

"§ 57A-9. *Annual report.*—(a) Every health maintenance organization shall annually, on or before the first day of March, file a report verified by at least two principal officers with the commissioner, with a copy to the secretary covering the preceding calendar year.

(b) Such report shall be on forms prescribed by the commissioner and shall include:

(1) a financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding year certified by an independent public accountant;

(2) any material changes in the information submitted pursuant to G.S. 57A-3(c);

(3) the number of persons enrolled during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year;

(4) a summary of information compiled pursuant to G.S. 57A-4(a)(2)c. in such form as required by the secretary; and

(5) such other information relating to the performance of the health maintenance organization as is necessary to enable the commissioner to carry out his duties under this act.

"§ 57A-10. *Information to enrollees.*—Every health maintenance organization shall annually provide to its enrollees:

(a) A statement summarizing its financial condition.

(b) A description of any changes in the organizational structure and operation of the health care plan which affects the nature, scope and location of the services available to enrollees.

(c) A description of services and information as to where and how to secure them. This requirement shall be waived if the initial informational material furnished to enrollees at the time of, or prior to, enrollment contains this information.

(d) A clear and understandable description of the health maintenance organization's method of resolving enrollee complaints. This requirement shall be waived if the initial informational material furnished to enrollees at the time of, or prior to, enrollment contains this information, unless there are changes in the Health Maintenance Organization's method of resolving enrollee complaints.

"§ 57A-11. *Open enrollment.*-

(a) (1) A health maintenance organization which

a. has for at least 5 years provided comprehensive health services on a prepaid basis, or

b. has an enrollment of at least 50,000 members, shall have at least once during each fiscal year next following a fiscal year in which it did not have a financial deficit an open enrollment period (determined under paragraph (2)) during which it shall accept individuals for membership in the order in which they apply for enrollment and, except as provided in paragraph (3), without regard to preexisting illness, medical condition, or degree of disability.

(2) An open enrollment period for a health maintenance organization shall be the lesser of

a. 30 days, or

b. the number of days in which the organization enrolls a number of individuals at least equal to three percent (3%) of its total net increase in enrollment (if any) in the fiscal year preceding the fiscal year in which such period is held. For the purpose of determining the total net increase in enrollment in a health maintenance organization, there shall be included any individual who is enrolled in the organization through a group which had a contract for health care services with the health maintenance organization at the time that such health maintenance organization was organized and commenced to provide services.

(3) Notwithstanding the requirements of paragraph (1) a health maintenance organization shall not be required to enroll individuals who are confined to an institution because of chronic illness, permanent injury, or other infirmity which would cause economic impairment to the health maintenance organization if such individual were enrolled.

(4) A health maintenance organization may not be required to make the effective date of benefits for individuals enrolled under this subsection less than 90 days after the date of enrollment.

(5) The commissioner may waive the requirements of this subsection for a health maintenance organization which demonstrates that compliance with the provisions of this subsection would jeopardize its economic viability in its service area.

"§ 57A-12. *Complaint system.*-

(a)(1) Every health maintenance organization shall establish and maintain a complaint system which has been approved by the commissioner, after consultation with the secretary, to provide reasonable procedures for the resolution of written complaints initiated by enrollees concerning health care services.

(2) Each health maintenance organization shall submit to the commissioner and the secretary an annual report in a form prescribed by the commissioner after consultation with the secretary, which shall include:

a. a description of the procedures of such complaint system;

b. the total number of complaints handled through such complaint system and a compilation of causes underlying the complaints filed; and

c. the number, amount and disposition of malpractice claims settled during the year by the health maintenance organization and any of the providers used by it.

(b) The health maintenance organization shall maintain records of written complaints filed with it concerning other than health care services and shall submit to the commissioner a summary report at such times and in such format as the commissioner may require. Such complaints involving other persons shall be referred to such persons with a copy to the commissioner.

(c) The commissioner or the secretary may examine such complaint system.

"§ 57A-13. *Investments.*—With the exception of investments made in accordance with G.S. 57A-5(a)(1) and (2) and G.S. 57A-5(b), the investable funds of a health maintenance organization shall be invested only in securities or other investments permitted by the laws of this State for the investment of assets constituting the legal reserves of life insurance companies or such other securities or investments as the commissioner may permit.

"§ 57A-14. *Protection against insolvency.*—Each health maintenance organization shall furnish a surety bond in an amount satisfactory to the commissioner, or deposit with the commissioner cash or securities acceptable to him in at least the same amount as a guarantee that the obligations to the enrollees will be performed. The commissioner may waive this requirement whenever satisfied that the assets of the organization or its contracts with insurers, hospital or medical service corporations, governments, or other organizations are sufficient to reasonably assure the performance of its obligations.

"§ 57A-15. *Prohibited practices.*—(a) No health maintenance organization, or representative thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of this act:

(1) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a health care plan.

(2) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue, if, in the total context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person, not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of possible significance to an enrollee of, or person considering enrollment in, a health care plan, if such benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist.

(3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography and format, as well as language, shall be such as to cause a reasonable person, not possessing special knowledge regarding health care plans and evidences of coverage therefor, to expect benefits, services, charges, or other advantages which the evidence of coverage does not provide or which the health care plan issuing such evidence of coverage does not regularly make available for enrollees covered under such evidence of coverage.

(b) The provisions of Article 3A of Chapter 58 of the General Statutes shall be construed to apply to health maintenance organizations, health care plans and evidences of coverage except to the extent that the commissioner determines that the nature of health maintenance organizations, health care plans and evidences of coverage render such sections clearly inappropriate.

(c) An enrollee may not be cancelled or not renewed because of any deterioration in the health of the enrollee.

(d) No health maintenance organization, unless licensed as an insurer, may use in its name, contracts, or literature any of the words "insurance", "casulty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this State.

"§ 57A-16. *Regulation of agents.*—The commissioner may, after notice and hearing, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents. An agent means a person directly or indirectly associated with a health care plan who engages in solicitation or enrollment.

"§ 57A-17. *Powers of insurers and hospital and medical service corporations.*—(a) An insurance company licensed in this State, or a hospital or medical service corporation authorized to do business in this State, may either directly or through a subsidiary or affiliate organize and operate a health maintenance organization under the provisions of this act. Notwithstanding any other law which may be inconsistent herewith, any two or more such insurance companies, hospital or medical service corporations, or subsidiaries or

affiliates thereof, may jointly organize and operate a health maintenance organization. The business of insurance is deemed to include the providing of health care by a health maintenance organization owned or operated by an insurer or a subsidiary thereof.

(b) Notwithstanding any provision of the insurance and hospital or medical service corporation laws contained in Chapters 57 and 58 of the General Statutes, an insurer or a hospital or medical service corporation may contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through health maintenance organizations and to provide coverage in the event of the failure of the health maintenance organization to meet its obligations. The enrollees of a health maintenance organization constitute a permissible group under such laws. Among other things, under such contracts, the insurer or hospital or medical service corporation may make benefit payments to health maintenance organizations for health care services rendered by providers pursuant to the health care plan.

"§ 57A-18. *Examinations.*—(a) The commissioner may make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as he deems it necessary for the protection of the interests of the people of this State but not less frequently than once every three years.

(b) The secretary may make an examination concerning the quality of health care services of any health maintenance organization and providers with whom such organization has contracts, agreements, or other arrangements pursuant to its health care plan as often as he deems it necessary for the protection of the interest of the people of this State but not less frequently than once every three years.

(c) Every health maintenance organization and provider shall submit its books and records relating to the health care plan to such examinations and in every way facilitate them. For the purpose of examinations, the commissioner and the secretary may administer oaths to, and examine the officers and agents of the health maintenance organization and the principals of such providers concerning their business.

(d) The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the commissioner or the secretary for whom the examination is being conducted.

(e) In lieu of such examination, the commissioner or secretary may accept the report of an examination made by the Commissioner of Insurance or Commissioner of Public Health of another state.

"§ 57A-19. *Suspension or revocation of certificate of authority.*—(a) The commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this act if he finds that any of the following conditions exist:

(1) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan, or in a manner contrary to that described in and reasonably inferred from any other information submitted under G.S. 57A-3, unless amendments to such submissions have been filed with and approved by the commissioner.

(2) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of Section 57A-8.

(3) The health care plan does not provide or arrange for basic health care services.

(4) The secretary has certified to the commissioner that:

a. the health maintenance organization does not meet the requirements of G.S. 57A-4(a)(2); or

b. the health maintenance organization is unable to fulfill its obligations to furnish health care services as required under its health care plan.

(5) The health maintenance organization no longer maintains the financial reserve specified in G.S. 57A-4(b)(4) or is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.

(6) The health maintenance organization has failed to implement a mechanism affording the enrollees an opportunity to participate in matters of policy and operation under G.S. 57A-6.

(7) The health maintenance organization has failed to implement the complaint system required by G.S. 57A-12 in a manner to reasonably resolve valid complaints.

(8) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner.

(9) The continued operation of the health maintenance organization would be hazardous to its enrollees.

(10) The health maintenance organization has otherwise failed to substantially comply with this act.

(b) A certificate of authority shall be suspended or revoked only after compliance with the requirements of G.S. 57A-22.

(c) When the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of such suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(d) When the certificate of authority of a health maintenance organization is revoked, such organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of such organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.

"§ 57A-20. *Rehabilitation, liquidation, or conservation of health maintenance organization.*—Any rehabilitation, liquidation or conservation of a health maintenance organization shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the commissioner pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies, except that the provisions of Articles 17B and 17C of Chapter 58 of the General Statutes

shall not apply to health maintenance organizations. The commissioner may apply for an order directing him to rehabilitate, liquidate, or conserve a health maintenance organization upon one or more grounds set out in Article 17A of Chapter 58 of the General Statutes or when in his opinion the continued operation of the health maintenance organization would be hazardous either to the enrollees or to the people of this State.

"§ 57A-21. *Regulations.*—The commissioner may, after notice and hearing, promulgate reasonable rules and regulations as are necessary or proper to carry out the provisions of this act. Such rules and regulations shall be subject to review in accordance with G.S. 57A-22.

"§ 57A-22. *Administrative procedures.*—(a) When the commissioner has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the health maintenance organization and the secretary in writing specifically stating the grounds for denial, suspension, or revocation and fixing a time of at least 30 days thereafter for a hearing on the matter.

(b) The secretary, or his designated representative, shall be in attendance at the hearing and shall participate in the proceedings. The recommendation and finding of the secretary with respect to matters relating to the quality of health care services provided in connection with any decision regarding denial, suspension, or revocation of a certificate of authority, shall be conclusive and binding upon the commissioner. After such hearing, or upon the failure of the health maintenance organization to appear at such hearing, the commissioner shall take action as is deemed advisable on written findings which shall be mailed to the health maintenance organization with a copy thereof to the secretary. The action of the commissioner and the recommendation and findings of the secretary shall be subject to review by the Superior Court of Wake County. The court may, in disposing of the issue before it, modify, affirm, or reverse the order of the commissioner in whole or in part.

(c) The provisions of Chapter 150A of the General Statutes of this State shall apply to proceedings under this section to the extent that they are not in conflict with subsections (a) and (b).

"§ 57A-23. *Fees.*—Every health maintenance organization subject to this act shall pay to the commissioner the following fees:

(a) for filing an application for a certificate of authority or amendment thereto, twenty dollars ($20.00);

(b) for filing each annual report, ten dollars ($10.00).

"§ 57A-24. *Penalties and enforcement.*—(a) The commissioner may, in lieu of suspension or revocation of a certificate of authority under G.S. 57A-19, levy an administrative penalty in an amount not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), if reasonable notice in writing is given of the intent to levy the penalty and the health maintenance organization has a reasonable time within which to remedy the defect in its operations which gave rise to the penalty citation.

(b) Any person who violates this act shall be guilty of a misdemeanor and on conviction may be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment for a period not exceeding two years or both, at the discretion of the court.

(c)(1) If the commissioner of the secretary shall for any reason have cause to believe that any violation of this act has occurred or is threatened, the commissioner or secretary may give notice to the health maintenance organization and to the representatives or other persons who appear to be involved in such suspected violation to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

(2) Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the commissioner or the secretary may deem appropriate under the circumstances.

(d)(1) The commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this act.

(2) Within 30 days after service of the order of cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this act have occurred. Such hearings shall be conducted pursuant to Chapter 150A of the General Statutes, and judicial review shall be available as provided by the said Chapter 150A.

(e) In the case of any violation of the provisions of this act, if the commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection (d), the commissioner may institute a proceeding to obtain injunctive relief, or seeking other appropriate relief, in the Superior Court of Wake County.

"§ 57A-25. *Statutory construction and relationship to other laws.*—(a) Except as otherwise provided in this act, provisions of the insurance laws and provisions of hospital or medical service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this act. This provision shall not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this act.

(b) Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(c) Any health maintenance organization authorized under this act shall not be deemed to be practicing medicine and shall be exempt from the provisions of Chapter 90 of the General Statutes relating to the practice of medicine.

"§ 57A-26. *Filings and reports as public documents.*—All applications, filings and reports required under this act shall be treated as public documents.

"§ 57A-27. *Confidentiality of medical information.*—Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this

act; or upon the express consent of the enrollee or applicant; or pursuant to statute or court order for the production of evidence or the discovery thereof; or in the event of claim or litigation between such person and the health maintenance organization wherein such data or information is pertinent. A health maintenance organization shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the health maintenance organization is entitled to claim.

"§ 57A-28. *Secretary's authority to contract.*—The secretary, in carrying out his obligations under Sections 57A-4(a)(2), 57A-18(b) and 57A-19(a), may contract with qualified persons to make recommendations concerning the determinations required to be made by him. Such recommendations may be accepted in full or in part by the secretary.

"§ 57A-29. *Severability.*—If any section, term, or provision of this act shall be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, term, or provision of this act, but the remaining sections, terms, and provisions shall be and remain in full force and effect."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 319 CHAPTER 581

AN ACT TO DISQUALIFY FROM SERVICE ON THE COMMISSION FOR THE BLIND THOSE INDIVIDUALS WHO COULD PROFIT FROM THE DECISIONS OF THE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-158 as the same appears in Volume 3C of the General Statutes is hereby amended on lines 7 through 21 by deleting the third through the seventh sentences beginning with the words "Four of the" and ending with the words "representation on the Commission for the Blind." and inserting in lieu thereof the following:

"No physician, no optometrist, no optician, no oculist, nor any other person who receives services or funds regulated by the commission shall be qualified to serve on the Commission for the Blind. Any person who is presently a member of the commission and is disqualified by reason of the preceding sentence shall be deemed to have resigned his position on the commission. The Governor shall appoint a successor for the balance of the unexpired term. At all times at least two members of the commission shall be persons who are visually handicapped to the minimum extent of being legally blind."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 370 CHAPTER 582

AN ACT TO AUTHORIZE HEALTH SERVICES FOR MINORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-21.4 is hereby rewritten to read as follows:

"§ 90-21.4. *Responsibility, liability and immunity of physicians.*—(a) Any physician licensed to practice medicine in North Carolina providing health services to a minor under the terms, conditions and circumstances of this Article shall not be held liable in any civil or criminal action for providing such services without having obtained permission from the minor's parent, legal guardian, or person standing *in loco parentis.* The physician shall not be relieved on the basis of this Article from liability for negligence in the diagnosis and treatment of a minor.

(b) The physician shall not notify a parent, legal guardian, or person standing *in loco parentis,* without the permission of the minor, concerning the medical health services set out in G.S. 90-21.5(a), unless the situation in the opinion of the attending physician indicates that notification is essential to the life or health of the minor. If a parent, legal guardian or person standing *in loco parentis* contacts the physician concerning the treatment or medical services being provided to the minor, the physician may give information."

Sec. 2. G.S. 90-21.5 is hereby rewritten to read as follows:

"§ 90-21.5. *Minor's consent sufficient for certain medical health services.*—(a) Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130-81, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or commitment to a mental institution or hospital for confinement or treatment of a mental condition.

(b) Any minor who is emancipated may consent to any medical treatment, dental and health services for himself or for his child."

Sec. 3. This act shall become effective on July 1, 1977, and shall not apply to pending litigation.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 1159 CHAPTER 583

AN ACT TO AUTHORIZE THE COMMISSIONER OF LABOR TO WAIVE THE PROVISIONS OF THE CHILD LABOR REGULATIONS LAWS WHEN IN HIS OPINION THE SAFETY OR HEALTH OF THE MINOR WOULD NOT BE ADVERSELY AFFECTED.

The General Assembly of North Carolina enacts:

Section 1. The Commissioner of Labor may waive for any child over 12 years of age any provision of G.S. Chapter 110, Article 1, "Child Labor Regulations", and authorize the issuance of an employment certificate when:

(1) he determines that the health or safety of the minor would not be adversely affected,

(2) the parent, guardian or other person standing in *loco parentis* consents in writing to the proposed employment.

(3) the permit issued by the Department of Social Services shall state the particular type of work which may be performed.

Sec. 2. This act shall be null and void after July 1, 1979.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 1164 CHAPTER 584

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PARTICIPATE IN FEDERAL PROGRAMS OF RAILROAD REVITALIZATION AND TO ADMINISTER FEDERAL PROGRAMS RELATING TO RAILROAD REVITALIZATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the North Carolina General Statutes is amended by adding a new Article to be numbered "Article 2D" which shall read as follows:

"ARTICLE 2D.

"Railroad Revitalization.

"§ 136-44.35. *Department of Transportation designated as agency to administer federal railroad revitalization programs.*—The Department of Transportation is hereby designated as the agency of the State of North Carolina responsible for administering all federal programs relating to railroad revitalization. The Department of Transportation is authorized to adopt and implement a State railroad plan and to do all things necessary to properly administer the federal railroad revitalization programs within the State of North Carolina. This section shall not be construed to prevent an operating railroad company in the State of North Carolina from applying for and receiving direct assistance from the United States Government under the provisions of any applicable federal legislation."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 1242 CHAPTER 585

AN ACT TO AUTHORIZE THE HUNTING OF BEAR IN HOLLY SHELTER WILDLIFE REFUGE AND BAITING OF GAME IN PENDER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, and particularly Chapter 258, Session Laws of 1969; Chapters 275 and 689, Session Laws of 1971; and Chapter 420, Session Laws of 1973, the North Carolina Wildlife Resources Commission is authorized during the open season for the hunting of bear, to permit hunting for bear on the Holly Shelter Wildlife Refuge; provided, however, that there shall not be authorized during one open season, after the fifteenth of October of each year on every other Monday, the hunting of bear by the aid of dogs.

Sec. 2. It shall be unlawful to hunt in Pender County with the use or aid of any salt, salt lick, grain, fruit or other bait, except as may be specifically otherwise provided by statute or regulations of the Wildlife Resources Commission.

Sec. 3. Penalties for the violation of this act shall be the same as those provided for violation of prohibited acts under Chapter 113 of the General Statutes of North Carolina.

Sec. 4. The provisions of this act shall remain in full force and effect unless expressly repealed by some subsequent act of the General Assembly, and shall not be repealed by implication or by general repealing clauses in any act of the General Assembly conferring authority in the North Carolina Wildlife Resources Commission over the game animals, the open season and manner of taking the game animals herein provided for.

Sec. 5. This act shall become effective after July 1, 1977.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 1244 CHAPTER 586

AN ACT TO CORRECT A STATUTORY REFERENCE CONCERNING TRANSPORTATION OF ALCOHOLIC BEVERAGES IN FOR-HIRE VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-26(a) is amended by deleting in line 7 the citation "G.S. 20-38(20)(b)," and inserting the citation "G.S. 20-4.01(27)(b)" in lieu thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 1341 CHAPTER 587

AN ACT TO PROVIDE FOR THE APPOINTMENT OF MEMBERS TO THE LENOIR COUNTY BOARD OF ALCOHOLIC CONTROL BY THE LENOIR COUNTY BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provisions of law, all future appointments of members to the Lenoir County Board of Alcoholic Control shall be made by the Lenoir County Board of County Commissioners.

Sec. 2. All laws and clauses of laws inconsistent herewith are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 1342 CHAPTER 588

AN ACT TO PROVIDE FOR THE APPOINTMENT OF MEMBERS TO THE JONES COUNTY BOARD OF ALCOHOLIC CONTROL BY THE JONES COUNTY BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provisions of law, all future appointments of members to the Jones County Board of Alcoholic Control shall be made by the Jones County Board of County Commissioners.

Sec. 2. All laws and clauses of laws inconsistent herewith are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 90 CHAPTER 589

AN ACT TO ESTABLISH STANDARDS FOR LAND PARCEL IDENTIFIER NUMBERS AND TO AUTHORIZE THE CREATION AND MAINTENANCE OF LAND RECORDS INDEXES BY PARCEL IDENTIFIER NUMBERS.

The General Assembly of North Carolina enacts:

Section 1. A new G.S. 161-22.2 is enacted to read as follows:

"§ 161-22.2. *Parcel identifier number indexes.*—(a) In lieu of the alphabetical indexes required by G.S. 161-21, G.S. 161-22 and G.S. 161-22.1, the register of deeds of any county in which unique parcel identifier numbers have been assigned to all parcels of real property may install an index by land parcel identifier numbers. For each instrument filed of record, the entry in a land parcel identifier number index must contain the following information:

(1) the parcel identifier number of the parcel or parcels affected;

(2) a brief description of the parcel or parcels, including subdivision block and lot number, if any;

(3) a description of the type of instrument recorded and the date the instrument was filed;

(4) the names of the parties to the instrument to the same extent as required by G.S. 161-22 and the legal status of the parties indexed;

(5) the book and page number, or film reel and frame number, or other file number where the instrument is recorded.

(b) Every instrument affecting real property filed for recording in the office of such register of deeds shall be indexed under the parcel identifier number of the land parcel or parcels affected.

(c) The parcel identifier number index may be maintained in index books, on film, or in computers or other automated data-processing machines. If the parcel identifier number index is maintained in a computer or other automated data-processing machine, the register of deeds shall, at least once each month, obtain from the computer or other data-processing machine a printed copy on paper or film of all index entries made since the previous printed copy was obtained. The printed copies shall be retained as security copies and shall not be altered or destroyed.

(d) Before a register of deeds may install a parcel identifier number index in lieu of the alphabetical indexes required by G.S. 161-22, the proposed index must be approved by the Secretary of the North Carolina Department of Administration. Before approving a parcel identifier number index, the Secretary must find that:

(1) the requirements of this section, G.S. 161-22, and all other applicable indexing requirements of the North Carolina General Statutes and applicable judicial decisions will be met by the index;

(2) measures for the protection of the indexed information are such that computer or other machine failure will not cause an irremediable loss of the information;

(3) printed forms and index sheets used in the index permit a display of all information required by law and are otherwise adequate;

(4) any computer or other data-processing machine used and the program for the use of such machines are adequate to perform the tasks assigned to them;

(5) access to the information contained in the index can be obtained by the use of both a parcel identifier number and the name of any party to an instrument filed of record;

(6) any parcel identifier number either reflects the State plane coordinates of some point in the parcel, or is keyed to a map of the parcel that shows the location of the parcel within the county;

(7) the parcel identifier numbering system is designed so that no parcel will be assigned the same number as any other parcel within the county;

(8) the parcel identifier numbering system shows for parcels of land created by subdivision, the number of the parcel of land subdivided in addition to the numbers of the newly-created parcels;

(9) the parcel identifier numbering system shows for parcels of land created by the combining of separate parcels, the numbers of the land parcels that were combined in addition to the number of the newly-created parcel;

(10) the parcel identifier numbering system is capable of identifying condominium units and other separate legal interests that may be created in a single parcel of land;

(11) the parcel identifier numbering system will meet the needs of the users as well as or better than the alphabetical indexes required by G.S. 161-21, G.S. 161-22 and G.S. 161-22.1.

The Secretary may require a register of deeds seeking approval of a parcel identifier number index to furnish him with any information concerning the index that is pertinent to the findings required for approval.

(e)(1) An approved parcel identifier number index shall become effective as the official real property index of the county as of the first day of July following approval by the Secretary of Administration.

(2) In any county in which a parcel identifier index is the official index, the register of deeds shall post notices in the alphabetical index books and at other appropriate places in his office stating that the parcel identifier number index is the official index and the date when the change became effective."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 129 CHAPTER 590

AN ACT TO MAKE INDOCHINA REFUGEES ELIGIBLE FOR IN-STATE TUITION STATUS.

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 116 of the General Statutes is hereby amended by adding thereto a new section which shall read as follows:

"§ 116-143.2. *Tuition of Indochina refugees.*—Any alien paroled into the United States after March 31, 1975, under the United States Immigration and Nationality Act as a refugee or orphan from the Republic of Vietnam, Laos, or Cambodia shall, if properly admitted to an institution of higher education as defined in G.S. 116-143.1, be eligible to be charged the in-state tuition rate immediately after completing 12 consecutive months presence in this State and continuing so long as the parolee abides in this State."

Sec. 2. This act shall become effective upon ratification, and it shall expire absolutely on July 1, 1982; the act shall not apply to, and no person shall be eligible for the act's special circumstances in-state tuition rate for, any term or semester which will end after July 1, 1982.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 358 CHAPTER 591

AN ACT TO REQUIRE ANY PERSON ACKNOWLEDGING PATERNITY TO DO SO DURING THE CHILD'S LIFETIME, FOR PURPOSES OF INTESTATE SUCCESSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 29-19(b), as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended in subdivision (2) immediately after the words "acknowledged himself during his own lifetime" by inserting the words "and the child's lifetime"; and is further amended in subdivision (2) immediately after the words "filed during his own lifetime" by inserting the words "and the child's lifetime".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 362 CHAPTER 592

AN ACT TO MAKE MISCELLANEOUS CHANGES IN G.S. CHAPTER 51 RELATING TO MARRIAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 51-1, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 6 by deleting the word "man" and substituting therefor the word "husband".

Sec. 2. G.S. 51-6, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on lines 2 and 3 by deleting the language "any two persons, or shall declare them to be man and wife" and substituting therefor the language "a man and woman, or shall declare them to be husband and wife".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 509 CHAPTER 593

AN ACT TO REWRITE G.S. 54-21.2(b) ALLOWING STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS TO MAKE ANY LOANS OR INVESTMENTS PERMITTED TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-21.2(b) is hereby rewritten to read as follows:

"(b) Subject to such regulations and limitations as the Administrator of the Savings and Loan Division may prescribe, any such association is authorized and permitted to make any loan or investment permitted to be made by any federal savings and loan association by the Congress of the United States, Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation. All investments made by State-chartered savings and loan associations after 1958 and prior to date of ratification shall for all purposes be considered to have been permitted investments if such investments were permitted to be made by federal savings and loan associations at the time they were made by a State-chartered savings and loan association."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 510 CHAPTER 594

AN ACT TO AUTHORIZE SAVINGS AND LOAN ASSOCIATIONS TO EMPLOY SUCH METHODS OF LOAN REPAYMENT AS SHALL BE PRESCRIBED BY THE ADMINISTRATOR OF THE SAVINGS AND LOAN DIVISION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-20 is hereby rewritten to read as follows:

"§ 54-20. *Methods or plans of repayment of loans.*—(a) Savings and loan associations organized under the laws of this State shall agree in writing with borrowing members as to the method or plan by which indebtedness shall be repaid.

(b) No method or plan of repayment shall be employed that will not mature and pay off the loan within a term to be fixed by the Savings and Loan Commission, which term shall not exceed 40 years from the date of the making thereof; provided, that the board of directors of a savings and loan association may authorize the renewal or extension of the time of repayment of any loan made by the association.

(c) Every person who has obtained or shall obtain a loan or who has assumed or shall assume payment of a loan or who shall be obligated upon a loan held by an association, shall be by reason thereof a member of the association making or holding such loan and shall be deemed a member until such loan is fully paid or assumed by another person or persons acceptable to the association. Such association may issue certificates of stock or membership to such member, but certificates shall not be necessary or required.

(d) Except as otherwise provided by statute the board of directors of any savings and loan association organized under the laws of this State may permit borrowing members to repay the indebtedness by any method or plan which the Administrator of the Savings and Loan Division shall, subject to the direction and approval of the Savings and Loan Commission, prescribe or approve.

(e) Except as otherwise provided by statute the board of directors of any savings and loan association organized under the laws of this State may direct that the association shall use any form of loan instrument or document (including notes and deeds of trust) which the Administrator of the Savings and Loan Division shall, subject to the direction and approval of the Savings and Loan Commission, prescribe or approve.

(f) The provisions of subsections (d) and (e) above shall not be construed to prohibit or make unlawful any method or plan of repayment of indebtedness or any loan instrument or document which is not otherwise prohibited or made unlawful by law or regulation."

Sec. 2. This act shall become effective 90 days after ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 612 CHAPTER 595

AN ACT TO AMEND ARTICLE 2, PART 5 OF CHAPTER 108 OF THE GENERAL STATUTES TO PROVIDE FOR PERIODS OF INELIGIBILITY FOR MEDICAL ASSISTANCE IN CASES WHERE REAL PROPERTY IS TRANSFERRED FOR THE PURPOSE OF QUALIFYING FOR SUCH ASSISTANCE.

The General Assembly of North Carolina enacts:

Section 1. A new section is hereby added at the end of Article 2, Part 5 of Chapter 108 of the General Statutes, as follows:

"§ 108-61.3. *Transfer of real property for purposes of qualifying for medical assistance; periods of ineligibility.*—Any person applying for medical assistance only under the Aid to the Aged, Blind, or Disabled categories who has, either by himself or through a legal representative, conveyed, transferred or disposed of any real property within one year prior to the date of making application and any person applying for or receiving medical assistance only under the Aid to the Aged, Blind, or Disabled categories who, either by himself or through a legal representative, conveys, transfers or disposes of any real property during

the application process or during any period of continuing eligibility without receiving consideration equivalent to the latest tax value of said property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes, shall, unless shown to the contrary, be presumed to have made such transfer, conveyance or disposition with the intent to qualify or continue to qualify for medical assistance benefits and shall be ineligible to receive such benefits thereafter in accordance with the following schedule or until an amount equivalent to the latest tax value of such property shall have been expended by or in behalf of such person for his maintenance need, including needs for medical care, whichever is sooner;

(1) property tax value of ten thousand dollars ($10,000) or more—three-year period of ineligibility from date of transfer;

(2) property tax value of less than ten thousand dollars ($10,000) but more than five thousand dollars ($5,000)—two-year period of ineligibility from date of transfer;

(3) property tax value of five thousand dollars ($5,000) or less but more than one thousand dollars ($1,000)—one-year period of ineligibility from date of transfer.

Any medical assistance applicant or recipient shall have a right to appeal, in accordance with the provisions of G.S. 108-44, the decision denying or terminating such assistance.

The provisions of this section pertain to persons applying, or on whose behalf application is made, for medical assistance only under the Aid to the Aged, Blind, or Disabled categories."

Sec. 2. This act shall become effective July 1, 1977, and shall only apply to those transfers, conveyances or dispositions made on or after July 1, 1977.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 673 CHAPTER 596

AN ACT TO AMEND ARTICLE 1, CHAPTER 69 OF THE GENERAL STATUTES, TO PROVIDE AUTHORIZATION FOR CHIEFS OF RURAL FIRE DEPARTMENTS TO INVESTIGATE FIRES; TO PERMIT THE SUBMISSION OF REPORTS BY COMPUTER; AND TO SUBSTITUTE ATTORNEY GENERAL FOR REFERENCES TO COMMISSIONER OF INSURANCE TO CONFORM WITH G.S. 143A-52.

The General Assembly of North Carolina enacts:

Section 1. G.S. 69-1, as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is hereby rewritten to read as follows:

"§ 69-1. *Fires investigated, reports, records.*—The Attorney General, through the State Bureau of Investigation, and the chief of the fire department, or chief of police where there is no chief of the fire department, in municipalities and towns, and the county fire marshall and the sheriff of the county and the chief of the rural fire department where such fire occurs outside of a municipality, are hereby authorized to investigate the cause, origin, and circumstances of every fire occurring in such municipalities or counties in which property has been destroyed or damaged, and shall specially make investigation whether the fire was the result of carelessness or design. A preliminary investigation shall be made by the chief of fire department or chief of police, where there is no chief

of fire department in municipalities, and by the county fire marshall and the sheriff of the county or the chief of the rural fire department where such fire occurs outside of a municipality, and must be begun within three days, exclusive of Sunday, of the occurrence of the fire, and the Attorney General, through the State Bureau of Investigation, shall have the right to supervise and direct the investigation when he deems it expedient or necessary.

The officer making the investigation of fires shall forthwith notify the Attorney General, and must within one week of the occurrence of the fire furnish to the Attorney General a written statement of all facts relating to the cause and origin of the fire, the kind, value and ownership of the property destroyed, and such other information as is called for by the forms provided by the Attorney General. Departments capable of submitting the required information by the utilization of computers and related equipment, by means of an approved format of standard punch cards, magnetic tapes or an approved telecommunications system, may do so in lieu of the submission of the written statement as provided for in this section. The Attorney General shall keep in his office a record of all reports submitted pursuant to this section. These reports shall at all times be open to public inspection."

Sec. 2. Whenever the words "Commissioner of Insurance" or "Commissioner" are used in the provisions of G.S. 69-2, G.S. 69-3, G.S. 69-3.1, G.S. 69-5, and G.S. 69-6, the same shall be deleted and the words "Attorney General" shall be inserted in lieu thereof.

Sec. 3. G.S. 143A-52 is amended in line 9 by deleting the word and figures "and G.S. 69-6."

Sec. 4. G.S. 69-4 is hereby amended by adding a new sentence at the end thereof, to read as follows:

"The commissioner shall submit annually, as early as consistent with full and accurate preparation, and not later than the first day of June, a detailed report of his official action under this Article, and it shall be embodied in his report to the General Assembly."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 675 CHAPTER 597

AN ACT AMENDING G.S. 67-3 CONCERNING THE DEATH OF HUMAN BEINGS CAUSED BY DOGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 67-3 is amended by rewriting the phrase "dog that kills sheep or other domestic animal," to read "dog that kills sheep or other domestic animals, or that kills a human being,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. B. 733 **CHAPTER 598**

AN ACT TO AMEND G.S. 90-64 TO MODIFY RECIPROCITY REQUIREMENTS FOR PHARMACISTS LICENSED BY ANOTHER STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-64, as the same appears in the 1975 Replacement to Volume 2C of the General Statutes, is hereby amended by designating the existing paragraph as subsection (a) and by adding a new subsection (b) thereto to read as follows:

"(b) An applicant who has taken and failed to pass the examinations of the North Carolina Board of Pharmacy given pursuant to G.S. 90-61 after July 1, 1977, shall not be granted reciprocal licensure until at least five years of active practice in pharmacy, provided that nothing in this section nor in the Rules and Regulations of the Board shall prevent any person who has taken and failed to pass the examinations of the North Carolina Board of Pharmacy prior to July 1, 1977, from being licensed by reciprocity pursuant to board rules and regular regulations. An applicant for the licensure examinations in this State after July 1, 1977, who has registered as a candidate for licensure in another state shall appear before the Board of Pharmacy for explanation and clarification of the effect of this provision on eligibility for reciprocity in the event that the candidate is unsuccessful on the North Carolina examinations."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H. B. 83 **CHAPTER 599**

AN ACT TO CLARIFY THE PROVISIONS OF G.S. 66-58(c)(9) RELATING TO THE OPERATION BY THE PUBLIC SCHOOLS OF SCHOOL CAFETERIAS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(c)(9) is hereby declared to be not in conflict with the provisions of the second paragraph of G.S. 115-133, which provides as follows:

"Notwithstanding the provisions of G.S. 115-51, county and city boards of education shall have authority to adopt rules and regulations by which school buildings, including cafeterias and lunchrooms, may be used for other than school purposes so long as such use is consistent with the proper preservation and care of the public school property. No liability shall attach to any board of education, individually or collectively, for personal injury suffered by reason of the use of such school property."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 542

CHAPTER 600

AN ACT TO REGULATE THE SETTING OF STEEL TRAPS IN BLADEN AND COLUMBUS COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful in Bladen and Columbus Counties for any person, firm or corporation to set or possess any steel traps of any type or to take any animal caught in any steel trap on any lands, except as hereinafter provided.

Sec. 2. It shall be lawful for any person, firm or corporation to set or possess steel traps and take animals therefrom, provided not otherwise prohibited by law, on his or its own land. It shall be lawful for any person, firm or corporation to set or possess steel traps and take animals therefrom on other lands in Bladen and Columbus Counties provided:

(a) The person, acting individually or an agent for a firm or corporation, has written and dated permission from the landowner on his person and further provided that the permission shall be valid only for one year from the date granted.

(b) Any person not specifically named in said written permission as the grantee of the right to trap shall not be deemed to have authority to trap.

Sec. 3. It is the intent and purpose of this act to prohibit any person, firm or corporation from setting or using steel traps of any type on lands in Bladen and Columbus Counties except as hereinabove provided.

Sec. 4. Violation of this act shall be a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), or by imprisonment of not more than 30 days, or by both fine and imprisonment, in the discretion of the court.

Sec. 5. Provided that nothing in this act shall prohibit the use of steel or metal jaw traps by county or State Public Health Officials or their designated agents in order to control the spread of disease when the use of such steel or metal jaw traps has been declared necessary by the Department of Human Resources.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 680

CHAPTER 601

AN ACT TO AMEND THE GENERAL STATUTES TO PROVIDE FOR FREEDOM OF CHOICE BY PATIENTS RELATING TO PSYCHOLOGICAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 57-1, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting the first sentence of the third paragraph to read as follows:

"The term 'medical service plan' as used in this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical and/or any other professional services authorized or permitted to be furnished by a duly licensed physician, except that in any plan in any policy of insurance governed by this Chapter that includes services

which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed practicing psychologist, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed practicing psychologist, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy."

Sec. 2. G.S. 58-260, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by inserting in the fourth line of the second paragraph after the word "chiropractor", and before the words "the insured" the phrase: "or duly licensed practicing psychologist," and by inserting in line 8 of the second paragraph after the word "chiropractor," and before the word "notwithstanding" the phrase "or a duly licensed practicing psychologist,".

G.S. 58-260 is further amended by inserting in the second sentence of the second paragraph, on line 12 of the second paragraph, after the word "chiropractor," and before the word "the" the following: "or a duly licensed practicing psychologist," and by inserting in line 16 of the second paragraph after the word "chiropractor," at the end of that line, the following: "or a duly licensed practicing psychologist,".

Sec. 3. The right to payment or reimbursement notwithstanding any provision to the contrary contained in any plan or policy shall be applicable only to those plans and policies entered into, issued, or renewed on or after the effective date hereof, there being no legislative intent to impair or enlarge obligations under any existing contracts.

Sec. 3½. For the purposes of this act, a "duly licensed practicing psychologist" shall be defined to only include a psychologist who is duly licensed or certified in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology.

Sec. 4. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 5. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 6. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 817 CHAPTER 602

AN ACT TO ABOLISH THE GASTONIA INDUSTRIAL DIVERSIFICATION TAX AND COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 406 of the Session Laws of 1945 is repealed.

Sec. 2. The unencumbered proceeds of the special tax heretofore levied pursuant to Chapter 406 of the Session Laws of 1945 and any other unencumbered funds in the possession of the Gastonia Industrial Diversification Commission as of the effective date of this act shall be paid to the North Carolina Local Governmental Employees' Retirement System to be applied to the commission's debt for unfunded accrued liability, and the balance remaining, if any, shall be paid into the Gaston County General Fund. If the commission has insufficient funds remaining to pay in full its unfunded accrued liability to the Local Governmental Employees' Retirement System, the balance due shall be funded by Gaston County in the manner provided by G.S. 128-30(d).

Sec. 3. The proceeds of all taxes levied pursuant to Chapter 406 of the 1945 Session Laws collected after the effective date of this act shall be paid into the Gaston County General Fund.

Sec. 4. This act shall become effective on October 15, 1977, pursuant to a favorable vote of the Board of Commissioners of Gaston County on the issue of abolition of the Gastonia Industrial Diversification Tax and Commission. If no such favorable vote occurs on or before October 15, 1977, this act shall be void and of no effect.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 889 CHAPTER 603

AN ACT RELATING TO THE METHOD OF ELECTION AND COMPOSITION OF ORANGE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Orange County Board of Education shall be elected on a nonpartisan basis at the time of the primary election in 1978 and biennially thereafter. The names of the candidates shall be printed on the ballots without reference to any party affiliation. The election and runoff election method shall be used with the results determined as provided in G.S. 163-293, and absentee ballots shall be permitted. Except as may be otherwise provided herein, the election shall be conducted according to the provisions of Chapter 163 of the General Statutes governing elections for county officers.

Sec. 2. In accordance with the provisions of this act the Orange County Board of Education shall consist of seven members. Present members of the board shall serve out their present terms. Except as hereinafter provided, all board members shall serve for terms of four years and shall take office at the time and in accordance with the requirements specified in G.S. 115-22. At the time of the primary election in 1978, five persons shall be elected to the board. The three persons receiving the highest number of votes shall serve for terms of four years and the two receiving the lowest number of votes shall serve for terms of two years. At the time of the primary election in 1980, three persons

shall be elected to the board for four-year terms. At the time of the primary election in 1982, four persons shall be elected to the board for four-year terms.

Sec. 3. Vacancies on the Orange County Board of Education shall be filled in accordance with the requirements of G.S. 115-24 and compensation for board members shall be established in accordance with the provisions of G.S. 115-29.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 1032 CHAPTER 604

AN ACT RELATING TO PENALTY FOR WELFARE FRAUD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-48 is rewritten to read as follows:

"§ 108-48(a). Any person whether provider or recipient who willfully and knowingly with the intent to deceive makes a false statement or representation or fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, attempts to obtain, or continues to receive public assistance to which he or any other person is not entitled in the amount of not more than two hundred dollars ($200.00) is guilty of a misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.

(b) Any person whether provider or recipient who willfully and knowingly with the intent to deceive makes a false statement or representation or fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, attempts to obtain, or continues to receive public assistance to which he is not entitled in an amount of more than two hundred dollars ($200.00) is guilty of a felony, and upon conviction or plea of guilty shall be punished as in cases of larceny."

Sec. 2. G.S. 108-110(a) is rewritten to read as follows:

"§ 108-110(a). Whoever whether provider or recipient knowingly obtains or attempts to obtain or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Article or the regulations issued pursuant thereto, any food coupons to which he is not entitled in the amount of two hundred dollars ($200.00) or less shall be guilty of a misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court. Whoever knowingly obtains or attempts to obtain or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this article or the regulations issued pursuant thereto, any food coupons to which he is not entitled in an amount more than two hundred dollars ($200.00) shall be guilty of a felony and shall be punished as in cases of larceny."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 1071 **CHAPTER 605**

AN ACT TO AMEND G.S. 116-143 TO PROVIDE FREE TUITION FOR FULL-TIME UNC FACULTY MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-143, as the same appears in the 1975 Replacement Volume 3A, is amended in the last paragraph thereof to read as follows:

"Notwithstanding the above provision relating to the abolition of free tuition, the Board of Governors of The University of North Carolina may, in its discretion, provide regulations under which a full-time faculty member of the rank of full-time instructor or above, and any full-time staff member of The University of North Carolina may during the period of normal employment enroll for not more than one course per semester in The University of North Carolina free of charge for tuition, provided such enrollment does not interfere with normal employment obligations and further provided that such enrollments are not counted for the purpose of receiving General Fund Appropriations."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 1158 **CHAPTER 606**

AN ACT TO EXPRESSLY AUTHORIZE A LOCAL ABC BOARD TO ENTER INTO A CONTRACT WITH A LOCAL LAW ENFORCEMENT AGENCY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-17(14), as the same appears in the 1975 Replacement Volume 1C, is hereby amended on line 6 after the word "officers." by inserting the following:

"In lieu of, or in addition to the previous provisions of this subdivision any county or municipal board is authorized to enter into a contract or agreement with a local law enforcement agency to provide for enforcement of the alcoholic beverage control laws within the territorial jurisdiction of that local law enforcement agency."

Sec. 2. This act shall apply only to Alamance, Dare, New Hanover, Lenoir and Rockingham Counties.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 1167 CHAPTER 607

AN ACT TO TRANSFER THE HISTORIC SEABOARD COASTLINE BUILDING TO THE CONTROL OF THE DEPARTMENT OF CULTURAL RESOURCES TO BE USED AS A RAILROAD MUSEUM AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Following the completion of its movement and renovation, the administration and control of all or a portion of the State-owned historic Seaboard Coastline Building located within the State Governmental Center Complex as defined by G.S. 146-22.1(3) may be transferred by the Department of Administration to the Department of Cultural Resources by allocation pursuant to Chapters 143 and 146 of the General Statutes. The Department of Cultural Resources shall use such building or portion thereof as may be allocated as a museum to promote the history of railroads in North Carolina and for such other purposes as it may deem appropriate.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 1278 CHAPTER 608

AN ACT TO CORRECT AN ERROR IN THE AVERY COUNTY REGISTRY.

Whereas, a plat recorded in Book of Maps No. 5, Page 68, Avery County Registry on the 4th day of February, 1974, was recorded prior to the enactment of Chapter 1050 of the 1973 Session Laws, in violation of G.S. 47-30 and G.S. 47-30.1; and

Whereas, Chapter 1050 of the 1973 Session Laws attempted to validate the recordation of said plat; and

Whereas, the recordation of said plat has cast a cloud on the title of real estate in Avery County; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1050 of the 1973 Session Laws is overruled by striking the last line thereof which is as follows, "68."

Sec. 2. The County Commissioners of Avery County shall remove from the Avery County Registry the plat recorded in Book of Maps No. 5, Page 68.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 1353

CHAPTER 609

AN ACT TO AMEND CHAPTER 308, SESSION LAWS OF 1977 TO CORRECT ERRORS RELATING TO THE ELECTION OF MEMBERS OF THE GOLDSBORO CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 308, Session Laws of 1977 is amended: by deleting from the second sentence the words "on a nonpartisan simple plurality basis pursuant to G.S. 163-279(1)"; by deleting from the third sentence the words "on a nonpartisan simple plurality basis as set forth above"; by deleting from the fourth sentence the words "on a nonpartisan simple plurality basis as set forth above".

Sec. 2. Section 4 of Chapter 308, Session Laws of 1977 is rewritten to read as follows:

"Sec. 4. The members of the Board of Education of the Goldsboro City School Administrative Unit shall be nominated and elected in a nonpartisan primary and election as provided in G.S. 163-279(a)(3) and G.S. 163-294, and in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes, except as otherwise provided in this act. The primary and election shall be held and conducted by the Wayne County Board of Elections."

Sec. 3. Section 5 of Chapter 308, Session Laws of 1977 is amended by rewriting the first sentence thereof to read:

"The persons elected to the Goldsboro City Board of Education shall take office at the first regular meeting in December of the Board of Education which is held following their election, and each member shall qualify by taking the oath of office and assuming the duties and responsibilities of office."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

S. B. 522

CHAPTER 610

AN ACT TO AMEND THE NORTH CAROLINA SECURITIES ACT, CHAPTER 78A OF THE GENERAL STATUTES, WITH RESPECT TO G.S. 78A-17(9), G.S. 78A-46(d) AND G.S. 78A-48(a) THEREOF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-17(9) is hereby amended by deleting the word "including" as the first word in the parenthetical phrase and replacing it with the words "other than" so that the parenthetical phrase, as amended shall read: "(other than those designated in subdivision (8))", deleting the words "provided further" and replacing them with the word "or", dividing the paragraph into two subparagraphs and by rewriting the last clause thereof so that, as amended, it shall read as follows:

"(9) a. Any transaction pursuant to an offer directed by the offeror to not more than 25 persons (other than those designated in subdivision (8)) in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment; provided,

however, the administrator may by rule or order as to any security or transaction, withdraw or further condition this exemption; or

b. Any transaction that is exempted from the provisions of Section 5 of the Securities Act of 1933 by virtue of any rule, or rules, promulgated, either before or after April 1, 1975, by the Securities and Exchange Commission under Section 4(2) of such act;".

Sec. 2. G.S. 78A-46(d) is hereby repealed in its entirety.

Sec. 3. G.S. 78A-48(a) is hereby amended by replacing the words "Wake County" with the words "any county" in the first sentence thereof so that, as amended, that sentence shall read as follows:

"(a) Any person aggrieved by a final order of the administrator may obtain a review of the order in the superior court of any county by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part."

The remainder of the paragraph shall remain unchanged.

Sec. 4. This act shall become effective on April 1, 1978.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

S. B. 657 CHAPTER 611

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF HIGHLANDS, MACON COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES SHALL BE OPERATED IN THE TOWN OF HIGHLANDS.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Highlands may call a special election to be held on the question of whether alcoholic beverage control stores may be operated in said town. The governing body may call the special election to be held on such date as the municipal board of elections may determine, but not less than 30 days nor more than 60 days subsequent to the ratification of this act. The Highlands Municipal Board of Elections shall hold and conduct all elections under this act, and the cost of the special elections shall be paid from the general fund of the town.

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Highlands.

Sec. 3. There shall be submitted to the qualified voters of the Town of Highlands at said election the question of whether municipal alcoholic beverage control stores may be operated in said town, and if a majority of the votes cast in such an election shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the town, but if a majority of the votes cast in such election shall be against alcoholic beverage control stores, no such stores shall be set up or operated in the Town of Highlands under the provisions of this act. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For

Alcoholic Beverage Control Stores", "Against Alcoholic Beverage Control Stores". Those favoring setting up and operating alcoholic beverage control stores in the town shall mark in the voting square to the left of the words, "For Alcoholic Beverage Control Stores", printed on the ballot and those opposed to alcoholic beverage control stores shall mark in the voting square to the left of the words "Against Alcoholic Beverage Control Stores", printed on the ballot.

Sec. 4. If the operation of town alcoholic beverage control stores is authorized under the provisions of this act, the governing body of the town shall immediately create a Town Board of Alcoholic Beverage Control, to be composed of a chairman and two other members who shall be well known for their good character, ability and business acumen. Said board shall be known and designated as the "Town of Highlands Board of Alcoholic Beverage Control". The chairman of said board shall be designated by the governing body of the town and shall serve for his first term a period of three years. The other two members of the board of alcoholic beverage control shall be designated by the governing body of the town, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the same term shall have expired, successors in office shall serve for a period of three years. Their successors shall be named by the governing body of the town. Any vacancy shall be filled by the governing body of the town for the unexpired term.

Sec. 5. The Town Board of Alcoholic Beverage Control shall have all the powers and duties prescribed for county boards of alcoholic control by G.S. 18A-17, except to the extent that the same may be in conflict with the provisions of this act, and shall be subject to the same powers and authority of the State Board of Alcoholic Control as are county boards of alcoholic control by the provisions of G.S. 18A-15. The Town of Highlands Board of Alcoholic Control, in the operation of any city alcoholic beverage control stores authorized under the provisions of this act, shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent that the same may be in conflict with the provisions of this act. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Highlands Board of Alcoholic Control.

Sec. 6. The Town Board of Alcoholic Beverage Control shall, out of the gross revenue derived from the operation of alcoholic beverage control stores, pay all salaries, costs and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the Town Board of Alcoholic Beverage Control. The remaining revenue, as determined by quarterly audit, shall be distributed as follows: a. not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics; b. ten percent (10%) for the development and operation of the town's recreational facilities; c. fifteen percent (15%) for the general fund of the Highlands-Cashiers Hospital, Inc.; d. two percent (2%) to the Town of Highlands Scholarship Fund; and e. any remaining revenue to the general fund of the Town of Highlands to be used for any and all purposes for which tax and non-tax revenues may be expended by the town.

Sec. 7. Subsequent elections may be held as authorized in this section. At such election if a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores", the Alcoholic Beverage Control Board shall be closed immediately and no beverages shall be sold at retail or otherwise to citizens of the Town of Highlands and within three months from the canvassing of such votes and the declaration of the results thereof, the Alcoholic Beverage Control Board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said board and convert the same into cash and the same be deposited in the general fund of the Town of Highlands. Thereafter, all public, local and private laws applicable to the sale of intoxicating beverages within the Town of Highlands, in force and effect prior to the authorization to operate alcoholic beverage control stores, shall be in full force and effect the same as if such election had not been held, and until and unless another election is held under the provisions of the act in which a majority of the votes shall be cast "For Alcoholic Beverage Control Stores". No election shall be called and held in the town under the provisions of this act within three years from the holding of the last election thereunder. The governing body of the Town of Highlands may order a subsequent alcoholic beverage control election on its own motion, and shall within 60 days after a petition shall have been presented to the town's governing body, filed and signed by at least twenty percent (20%) of the number of the registered and qualified voters of the Town of Highlands that voted in the election for the governing body of said town in the last election, order an election on the question of whether alcoholic beverage control stores shall be operated in the town.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

S. B. 816 CHAPTER 612

AN ACT TO CREATE THE WANCHESE HARBOR CITIZENS ADVISORY COUNCIL, AND TO ESTABLISH THE DUTIES AND RESPONSIBILITIES OF THE COUNCIL.

Whereas, the project to create the largest fishing harbor on the east coast of the United States at Wanchese will begin in the near future; and

Whereas, the citizens of Wanchese recognize that the project will have a tremendous impact upon the quality and the tranquility of life in their community; and

Whereas, the citizens of Wanchese recognize the unique characteristics of their village and environs, and are justly concerned over the impact of the project; and

Whereas, the citizens of Wanchese desire that the development of their community and surroundings be undertaken in an orderly manner that will least interfere with the high quality and peaceful life that they presently enjoy; and

Whereas, the citizens of Wanchese are in a unique position to review the project and to examine the increase in industry and population on a day-to-day basis; and

Whereas, the recommendations and suggestions of the citizens of Wanchese would be helpful to the agencies governing the project in protecting and preserving the quality of the style of life presently being enjoyed by those citizens; and

Whereas, in light of the above it is appropriate that a procedure be established to provide a method whereby the citizens of Wanchese may examine the impact of the project on a continuing basis and present their recommendations to the proper authorities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby established the Wanchese Harbor Citizens Advisory Council, which shall consist of nine members appointed by the Governor and who must be citizens of Wanchese and have permanently resided within Wanchese for a minimum of three years to be selected as follows: two members to be nominated by the Dare County Board of Commissioners; one to be an ocean or outside fisherman and one to be a sound or inside waterman; two members to be nominated by the Wanchese United Methodist Church, one male, one female; two members to be nominated by the Wanchese Assembly of God Church, one male and one female; two members to be nominated by the Wanchese Civic Association, one male and one female; one member at large to be selected by the Governor from the Village of Wanchese.

In the event any of the organizations entitled to representation fail to nominate persons to the Governor's office by December 1, 1978, and each two years thereafter, the Governor shall then appoint members at large from the Village of Wanchese. The members of the council shall be appointed prior to January 1, 1978. The appointments shall be for a two-year term. The chairman shall be selected by the members of the council for a two-year term.

Sec. 2. It shall be the duty of the Wanchese Harbor Citizens Advisory Council to meet quarterly to study the impact of the enlargement of the harbor at Wanchese, to identify the concerns of the citizens of Wanchese, and to adopt an annual report to the Governor which will set forth the recommendations of the council in regard to an orderly development of Wanchese and ensuring the quality and tranquility of life in Wanchese and its surrounding area.

Sec. 3. A copy of the annual report of the council shall be forwarded to the Secretary of the Department of Commerce and the Secretary of the Department of Natural Resources and Community Development and a copy of the report shall be forwarded to the Dare County Board of Commissioners.

Sec. 4. The members of the Wanchese Harbor Citizens Advisory Council shall serve without compensation or reimbursement for their services although it is recognized that in the future such service may be so extended as to justify compensation or reimbursement or both.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. B. 212 **CHAPTER 613**

AN ACT TO PERMIT STOLEN PROPERTY TO BE RESTORED TO RIGHTFUL OWNERS IN ADVANCE OF TRIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 15 is hereby amended by adding a new section to read as follows:

"§ 15-11.1. *Seizure, custody and disposition of articles; exceptions.*—(a) If a law enforcement officer seizes property pursuant to lawful authority, he shall safely keep the property under the direction of the court or magistrate as long as necessary to assure that the property will be produced at and may be used as evidence in any trial. Upon application to the court by the lawful owner or a person, firm, or corporation entitled to possession, after notice to all parties, including the defendant, and after hearing, the court may in its discretion order any or all of the property returned to the lawful owner or a person, firm, or corporation entitled to possession. The court may enter such order as may be necessary to assure that the evidence will be available for use as evidence at the time of trial, and will otherwise protect the rights of all parties. Notwithstanding any other provision of law, photographs or other identification or analyses made of the property may be introduced at the time of the trial provided that the court determines that the introduction of such substitute evidence is not likely to substantially prejudice the rights of the defendant in the criminal trial.

(b) In the case of unknown or unapprehended defendants or of defendants wilfully absent from the jurisdiction, the court shall have discretion to appoint a guardian ad litem, who shall be a licensed attorney, to represent and protect the interest of such unknown or absent defendants. The judicial findings concerning identification or value that are made at such hearing whereby property is returned to the lawful owner or a person, firm, or corporation entitled to possession, may be admissible into evidence at the trial. After final judgment all property lawfully seized by or otherwise coming into the possession of law enforcement authorities shall be disposed of as the court or magistrate in its discretion orders, and may be forfeited and either sold or destroyed in accordance with due process of law.

(c) Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 426 **CHAPTER 614**

AN ACT TO PROVIDE THAT RESTITUTION AND REPARATION BE INCORPORATED AS AN INTEGRAL PART OF THE CRIMINAL JUSTICE SYSTEM.

Whereas, there is a desire on the part of the public for the offender to bear some of the responsibility for the damage or loss suffered by the victims of crimes; and

Whereas, the laws of this State do not speak directly and clearly to the question of making restitution or reparation an integral part of the criminal justice system at the points of plea negotiation, parole and work release; and

Whereas, a willingness on the part of the criminal to make restitution or reparation evidences his awareness that he is responsible for his actions; and

Whereas, the General Assembly recognizes that an awareness on the part of a criminal that he is responsible for his actions is an indication of his rehabilitation, and that, therefore, an agreement to make restitution and reparation should rightfully and appropriately be considered in plea negotiations and in determining parole and work release; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-199(10) is hereby rewritten to read as follows:

"(10) Make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses for which the defendant has been convicted. When restitution or reparation is a condition imposed, the court shall take into consideration the resources of the defendant, his ability to earn, his obligation to support dependents, and such other matters as shall pertain to his ability to make restitution or reparation. The amount must be limited to that supported by the record, and the court may order partial restitution or reparation when it appears that the damage or loss caused by the offense or offenses is greater than that which the defendant is able to pay. The court shall fix the manner of performing the restitution or reparation, and in doing so, the court may take into consideration the recommendation of the probation officer. An order providing for restitution or reparation shall in no way abridge the right of any aggrieved party to bring a civil action against the defendant for money damages arising out of the offense or offenses committed by the defendant, but any amount paid by the defendant under the terms of an order as provided herein shall be credited against any judgment rendered against the defendant in such civil action. As used herein, 'restitution' shall mean compensation for damage or loss as could ordinarily be recovered by an aggrieved party in a civil action. As used herein, 'reparation' shall include but not be limited to the performing of community services, volunteer work, or doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein, 'aggrieved party' shall include individuals, firms, corporations, associations or other organizations, and government agencies, whether federal, State or local. Provided, that no government agency shall benefit by way of restitution or reparation except for particular damage or loss to it over and above its normal operating costs. Provided further, that no third party shall benefit by way of restitution or reparation as a result of the liability of that third party to pay indemnity to an aggrieved party for the damage or loss caused by the defendant. Restitution or reparation measures are ancillary

remedies to promote rehabilitation of criminal offenders and to provide for compensation to victims of crime, and shall not be construed to be a fine or other punishment as provided for in the Constitution and laws of this State."

Sec. 2. G.S. 15-197.1 is hereby amended by adding a new subsection (c) to read as follows:

"(c) As a term and condition of special probation as provided in subsection (b), the court may order that the defendant make restitution or reparation to an aggrieved party or parties for the damage or loss caused by the defendant arising out of the offense or offenses for which the defendant has been convicted. The order providing for restitution or reparation shall be in accordance with the applicable provisions of G.S. 15-199(10)."

Sec. 3. G.S. 15A-1021(c) is hereby rewritten to read as follows:

"(c) If the parties have reached a proposed plea arrangement in which the prosecutor has agreed to recommend a particular sentence, they may, with the permission of the trial judge, advise the judge of the terms of the arrangement and the reasons therefor in advance of the time for tender of the plea. The proposed plea arrangement may include a provision for the defendant to make restitution or reparation to an aggrieved party or parties for the damage or loss caused by the offense or offenses committed by the defendant. The judge may indicate to the parties whether he will concur in the proposed disposition. The judge may withdraw his concurrence if he learns of information not consistent with the representations made to him."

Sec. 4. G.S. 15A-1021 is hereby amended by adding a new subsection (d) to read as follows:

"(d) When restitution or reparation by the defendant is a part of the plea arrangement agreement, if the judge concurs in the proposed disposition he may order that restitution or reparation be made pursuant to the provisions of G.S. 15-199(10), or pursuant to the provisions of G.S. 15-197.1. If an active sentence is imposed other than by the provisions of G.S. 15-197.1, the court may order that the defendant make restitution or reparation out of any earnings gained by the defendant if he attains work release privileges under the provisions of G.S. 148-33.1, or that restitution or reparation be imposed as a condition of parole in accordance with the provisions of G.S. 148-57.1. The order providing for restitution or reparation shall be in accordance with the applicable provisions of G.S. 15-199(10). When restitution or reparation is ordered as a part of a plea arrangement or a condition of parole or work release privileges, the sentencing court shall enter as a part of the commitment that restitution or reparation is ordered as a part of a plea arrangement. The Administrative Office of the Courts shall prepare and distribute forms which provide for ample space to make restitution or reparation orders incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its order."

Sec. 5. G.S. 143B-266 is hereby amended by adding a new subsection (d) to read as follows:

"(d) The commission is authorized and empowered to impose as a condition of parole that restitution or reparation be made by the prisoner in accordance with the provisions of G.S. 148-57.1. The commission is further authorized and empowered to make restitution or reparation a condition of work release in accordance with the provisions of G.S. 148-33.2."

Sec. 6. G.S. 148-33.1(f), as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by redesignating subdivision (4) as subdivision (5), and by inserting a new subdivision (4) to read as follows:

"(4) To make restitution or reparation to an aggrieved party or parties for the damage or loss occasioned by the offense or offenses committed by the prisoner when such restitution or reparation is imposed as a condition of work release privileges pursuant to the provisions of G.S. 148-33.2."

Sec. 7. Article 3 of Chapter 148 of the General Statutes is amended by adding a new G.S. 148-33.2 to read as follows:

"§ 148-33.2. *Restitution by prisoners with work release privileges.*—(a) As a rehabilitative measure, the Secretary of the Department of Correction and the Parole Commission are authorized and empowered to impose as a condition of attaining work release privileges that the prisoner make restitution or reparation to an aggrieved party or parties for the damage or loss occasioned by the offense or offenses committed by the prisoner when such restitution or reparation is ordered as a condition of attaining work release privileges pursuant to a plea arrangement made under provisions of G.S. 15A-1021. The secretary and the Parole Commission shall implement the order of the sentencing court, but, if due to the disability of the prisoner, or for other causes, such order cannot be reasonably implemented, the secretary and the Parole Commission shall state in writing why they cannot reasonably implement the order, and forward the written statement to the sentencing court. The sentencing court shall consider the written statement, and shall issue such further orders as it may deem necessary.

(b) As a rehabilitative measure, the Secretary of the Department of Correction and the Parole Commission are further authorized and empowered to impose as a condition of attaining work release privileges that the prisoner make restitution or reparation to an aggrieved party when such restitution or reparation is recommended by the sentencing court as a condition of attaining work release privileges. The secretary and the Parole Commission shall not be bound by such recommendation, but if they elect not to implement the recommendation, they shall state in writing the reasons therefor, and shall forward the same to the sentencing court.

(c) When an active sentence is imposed, the court shall consider whether, as a further rehabilitative measure, restitution or reparation should be ordered or recommended to the Parole Commission and the Secretary of Correction to be imposed as a condition of attaining work release privileges. If the court determines that restitution or reparation should not be ordered or recommended as a condition of attaining work release privileges, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be ordered or recommended as a condition of attaining work release privileges, it shall make its order or recommendation a part of the order committing the defendant to custody. The order or recommendation shall be in accordance with the applicable provisions of G.S. 15-199(10). The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation orders or recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its order or recommendation.

(d) The Secretary of the Department of Correction and the Parole Commission shall establish rules and regulations to implement this section,

which shall include adequate notice to the prisoner that restitution or reparation is being considered as a condition of work release, and opportunity for the prisoner to be heard. Such rules and regulations shall also provide additional methods whereby facts may be obtained to supplement the order or recommendation of the sentencing court."

Sec. 8. Article 4 of Chapter 148 of the General Statutes is amended by adding a new G.S. 148-57.1 to read as follows:

"§ 148-57.1. *Restitution as a condition of parole.*—(a) As a rehabilitative measure, the Parole Commission is authorized and empowered to impose as a condition of attaining parole that the prisoner make restitution or reparation to an aggrieved party or parties for the damage or loss caused by the offense or offenses committed by the prisoner when such restitution or reparation is ordered as a condition of parole pursuant to a plea arrangement made under the provisions of G.S. 15A-1021. The Parole Commission shall implement the order of the sentencing court, but, if due to the disability of the prisoner, or for other causes, such order cannot reasonably be implemented, the Parole Commission shall state in writing why it cannot reasonably implement the order, and forward the written statement to the sentencing court. The sentencing court shall consider the written statement, and shall issue such further orders as it may deem necessary.

(b) As a rehabilitative measure, the Parole Commission is further authorized and empowered to impose as a condition of attaining parole that the prisoner make restitution or reparation to an aggrieved party when such restitution or reparation is recommended by the sentencing court as a condition of attaining parole. The Parole Commission shall not be bound by such recommendation, but if it elects not to implement the recommendation, it shall state in writing the reasons therefor, and shall forward the same to the sentencing court.

(c) When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, restitution or reparation should be ordered or recommended to the Parole Commission to be imposed as a condition of parole. If the court determines that restitution or reparation should not be ordered or recommended as a condition of parole, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be ordered or recommended as a condition of parole, it shall make its order or recommendation a part of the order committing the defendant to custody. The order or recommendation shall be in accordance with the applicable provisions of G.S. 15-199(10). The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation orders or recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its order or recommendation.

(d) The Parole Commission shall establish rules and regulations to implement this section, which shall include adequate notice to the prisoner that restitution or reparation is being considered as a condition of his parole, and opportunity for the prisoner to be heard. Such rules and regulations shall also provide additional methods whereby facts may be obtained to supplement the order or recommendation of the sentencing court."

Sec. 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other

provisions or applications, and to this end the provisions of this act are severable.

Sec. 10. This act shall become effective on October 1, 1977, and shall apply to offenses committed on and after that date.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 551 CHAPTER 615

AN ACT TO AMEND ARTICLE 22A OF CHAPTER 163 OF THE GENERAL STATUTES TO REQUIRE OFFICE HOLDERS TO REPORT CERTAIN FUNDS AS CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

The General Assembly of North Carolina enacts:

Section 1. Article 22A of Chapter 163 of the General Statutes is amended by adding a new section at the end thereof to be designated as G.S. 163-278.36, and to read as follows:

"§ 163-278.36. *Elected officials to report funds.*—All contributions to, and all expenditures from any 'booster fund', 'support fund', 'unofficial office account' or any other similar source which are made to, in behalf of, or used in support of any person holding an elective office for any political purpose whatsoever during his term of office shall be deemed contributions and expenditures as defined in this Article and shall be reported as contributions and expenditures as required by this Article. The annual report shall show the balance of each separate fund or account maintained on behalf of the elected office holder."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 621 CHAPTER 616

AN ACT TO AMEND G.S. 14-269 TO AUTHORIZE LAW ENFORCEMENT AGENCIES TO REGULATE POSSESSION OF CONCEALED WEAPONS BY LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-269, as the same appears in the 1969 Replacement Volume 1B of the General Statutes, is amended on line 13 by inserting a comma after the word "duties" in lieu of the period and adding the following words: "provided, however, full-time sworn law enforcement officers may carry a concealed weapon when off-duty in jurisdiction where assigned if so authorized by written regulations of the law enforcement unit, which must be filed with the Clerk of Court in the county where the law enforcement unit is located, provided further, that no such regulation shall permit the carrying of a concealed weapon while the officer is consuming or under the influence of intoxicating liquor."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1046 **CHAPTER 617**

AN ACT TO AUTHORIZE WITHDRAWAL OF ERRONEOUS BIDS ON PUBLIC CONSTRUCTION CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Article 8, Chapter 143 of the General Statutes of North Carolina is amended by inserting therein a new section designated G.S. 143-129.1 to read as follows:

"§ 143-129.1. *Withdrawal of bid.*—A public agency may allow a bidder submitting a bid pursuant to North Carolina G.S. 143-129 for construction or repair work to withdraw his bid from consideration after the bid opening without forfeiture of his bid security if the price bid was based upon a mistake, which constituted a substantial error, provided the bid was submitted in good faith, and the bidder submits credible evidence that the mistake was clerical in nature as opposed to a judgment error, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work papers, documents or materials used in the preparation of the bid sought to be withdrawn. A request to withdraw a bid must be made in writing to the public agency which invited the proposals for the work prior to the award of the contract, but not later than 72 hours after the opening of bids.

If a request to withdraw a bid has been made in accordance with the provisions of this section, action on the remaining bids shall be considered, in accordance with North Carolina G.S. 143-129, as though said bid had not been received. Notwithstanding the foregoing, such bid shall be deemed to have been received for the purpose of complying with the requirements of G.S. 143-132. Provided, however, in the event the work is relet for bids, under no circumstances shall the bidder who has filed a request to withdraw be permitted to rebid the work.

If a bidder files a request to withdraw his bid, the agency shall promptly hold a hearing thereon. The agency shall give to the withdrawing bidder reasonable notice of the time and place of any such hearing. The bidder, either in person or through counsel, may appear at the hearing and present any additional facts and arguments in support of his request to withdraw his bid. The agency shall issue a written ruling allowing or denying the request to withdraw within five days after the hearing. If the agency finds that the price bid was based upon a mistake of the type described in the first paragraph of this section, then the agency shall issue a ruling permitting the bidder to withdraw without forfeiture of the bidder's security. If the agency finds that the price bid was based upon a mistake not of the type described in the first paragraph of this section, then the agency shall issue a ruling denying the request to withdraw and requiring the forfeiture of the bidder's security. A denial by the agency of the request to withdraw a bid shall have the same effect as if an award had been made to the bidder and a refusal by the bidder to accept had been made, or as if there had been a refusal to enter into the contract, and the bidder's bid deposit or bid bond shall be forfeited.

In the event said ruling denies the request to withdraw the bid, the bidder shall have the right, within 20 days after receipt of said ruling, to contest the

matter by the filing of a civil action in any court of competent jurisdiction of the State of North Carolina. The procedure shall be the same as in all civil actions except all issues of law and fact and every other issue shall be tried *de novo* by the judge without jury; provided that the matter may be referred in the instances and in the manner provided for by North Carolina G.S. 1A-1, Rule 53, as amended. Notwithstanding the foregoing, if the public agency involved is the Department of Administration, it may follow its normal rules and regulations with respect to contested matters, as opposed to following the administrative procedures set forth herein. If it is finally determined that the bidder did not have the right to withdraw his bid pursuant to the provisions of this section, the bidder's security shall be forfeited. Every bid bond or bid deposit given by a bidder to a public agency pursuant to G.S. 143-129 shall be conclusively presumed to have been given in accordance with this section, whether or not it be so drawn as to conform to this section. This section shall be conclusively presumed to have been written into every bid bond given pursuant to G.S. 143-129.

Neither the agency nor any elected or appointed official, employee, representative or agent of such agency shall incur any liability or surcharge, in the absence of fraud or collusion, by permitting the withdrawal of a bid pursuant to the provisions of this section.

No withdrawal of the bid which would result in the award of the contract on another bid of the same bidder, his partner, or to a corporation or business venture owned by or in which he has an interest shall be permitted. No bidder who is permitted to withdraw a bid shall supply any material or labor to, or perform any subcontract or work agreement for, any person to whom a contract or subcontract is awarded in the performance of the contract for which the withdrawn bid was submitted, without the prior written approval of the agency. Whoever violates the provisions of the foregoing sentence shall be guilty of a misdemeanor."

Sec. 2. This act shall become effective July 1, 1977, and shall apply only to construction or repair work advertised or readvertised for bids pursuant to G.S. 143-129 after said date.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1051 CHAPTER 618

AN ACT TO PERMIT THE COLLECTION IN ALCOHOLIC BEVERAGE CONTROL STORES OF DONATIONS TO THE ALCOHOLISM RESEARCH FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-17 is amended by adding the following new subsection (17):

"(17) To permit the installation in A.B.C. stores of containers by which customers may make contributions to the Alcoholism Research Fund established by G.S. 122-121."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1056 **CHAPTER 619**

AN ACT TO AUTHORIZE CHANGES IN PUBLIC BUILDING CONSTRUCTION AFTER INITIAL DESIGN AND TO REDUCE THE OBLIGATION OF SURETIES ON BID BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-129, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is amended by inserting at the end of the first paragraph the following sentence:

"The limitation contained in this paragraph shall not apply to construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section."

Sec. 2. The seventh paragraph of G.S. 143-129 which appears on page 48 of the 1975 Cumulative Supplement to Volume 3C of the General Statutes is amended by placing a period after the word "bond" in line 10 thereof and by deleting the remainder of the sentence.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1057 **CHAPTER 620**

AN ACT TO REVISE G.S. 143-128 CONCERNING SEPARATE SPECIFICATIONS FOR BRANCHES OF WORK IN THE CONSTRUCTION OF PUBLIC BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-128 is rewritten to read as follows:

"§ 143-128. *Separate specifications for building contracts; responsible contractors.*—Every officer, board, department, commission or commissions charged with responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration or repair of any buildings for the State, or for any county or municipality, when the entire cost of such work shall exceed fifty thousand dollars ($50,000) must have prepared separate specifications for each of the following subdivisions or branches of work to be performed:

(1) Heating, ventilating, air conditioning and accessories (separately or combined into one conductive system) and/or refrigeration for cold storage (where the cooling load is 15 tons or more of refrigeration), and all work kindred thereto.

(2) Plumbing and gas fittings and accessories, and all work kindred thereto.

(3) Electrical wiring and installations, and all work kindred thereto.

(4) General work relating to the erection, construction, alteration, or repair of any building above referred to, which work is not included in the above-listed three subdivisions or branches.

All such specifications must be so drawn as to permit separate and independent bidding upon each of the subdivisions or branches of work enumerated above. The above enumeration of subdivisions or branches of work shall not be construed to prevent any officer, board, department, commission or commissions from preparing additional separate specifications and awarding additional separate contracts for any other category of work when it is deemed

in the best interest of such officer, board, department, commission or commissions to do so.

All contracts hereafter awarded by the State or by a county or municipality, or a department, board, commissioner, or officer thereof, for the erection, construction, alteration or repair of buildings, or any parts thereof, shall award the respective work specified separately to responsible and reliable persons, firms or corporations regularly engaged in their respective lines of work. When the estimated cost of work to be performed in any single subdivision or branch is less than five thousand dollars ($5,000), the same may be included in the contract for one of the other subdivisions or branches of the work, irrespective of total project cost.

Each separate contractor shall be directly liable to the State of North Carolina, or to the county or municipality, and to the other separate contractors for the full performance of all duties and obligations due respectively under the terms of the separate contracts and in accordance with the plans and specifications, which shall specifically set forth the duties and obligations of each separate contractor. For the purpose of this section, the wording 'separate contractor' is hereby deemed and held to mean any person, firm or corporation who shall enter into a contract with the State, or with any county or municipality, for the erection, construction, alteration or repair of any building or buildings, or parts thereof.

All public authorities coming within the requirements of this section shall have the authority to purchase and erect prefabricated or relocatable buildings or portions thereof without complying with the provisions hereof, except that portion of the work which must be performed at the construction site."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1079 CHAPTER 621

AN ACT TO INCREASE THE ANNUAL LICENSE RENEWAL FEE FOR PODIATRISTS FROM A FEE NOT TO EXCEED FIFTY DOLLARS TO A FEE NOT TO EXCEED ONE HUNDRED FIFTY DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-202.10 is hereby amended by deleting the words "fifty dollars ($50.00)" from line 6 of said statute and substituting in lieu thereof "one hundred fifty dollars ($150.00)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1096 CHAPTER 622

AN ACT TO REDEFINE THE DUTIES OF THE VETERANS AFFAIRS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-252, renumbered G.S. 143B-399 by Chapter 70 of the 1977 Session Laws, is rewritten to read as follows:

"§ 143B-399. *Veterans Affairs Commission; creation, powers and duties.*— There is hereby created the Veterans Affairs Commission of the Department of Administration. The Veterans Affairs Commission shall have the following functions and duties:

(1) to advise the Governor on matters relating to the affairs of veterans in North Carolina;

(2) to maintain a continuing review of the operation and budgeting of existing programs for veterans and their dependents in the State and to make any recommendations to the Governor for improvements and additions to such matters to which the Governor shall give due consideration;

(3) to serve collectively as a liaison between the Division of Veterans Affairs and the veterans organizations represented on the commission;

(4) to promulgate rules and regulations concerning the awarding of scholarships for children of North Carolina veterans as provided by Article 4 of Chapter 165 of the General Statutes of North Carolina. The commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the State Board of Veterans Affairs shall remain in full force and effect unless and until repealed or superseded by action of the Veterans Affairs Commission. All rules and regulations adopted by the commission shall be enforced by the Division of Veterans Affairs; and

(5) to advise the Governor on any matter the Governor may refer to it."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1144 CHAPTER 623

AN ACT TO CLARIFY THE AUTHORITY OF THE SECRETARY OF CORRECTION TO PLACE AN INMATE ON WORK RELEASE.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 148-33.1 as it appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina is hereby rewritten to read as follows:

"The Secretary of Correction shall authorize immediate work release privileges for any person serving a sentence not exceeding five years in the State prison system and for whom the presiding judge shall have recommended work release privileges when (i) it is verified that appropriate employment for the person is available in an area where, in the judgment of the secretary, the Department of Correction has facilities to which the person may suitably be assigned, and (ii) custodial and correctional considerations would not be adverse to releasing the person without supervision into the free community."

Sec. 2. G.S. 148-33.1 is further amended by adding a new subsection (i) to read as follows:

"(i) No recommendation for work release shall be made at the time of sentencing in any case in which the presiding judge shall suspend the imposition of sentence and place a convicted person on probation; however, if probation be subsequently revoked and the active sentence of imprisonment executed, the court may at that time recommend work release. Neither a recommendation for work release by the court or the decision of the Secretary of Correction to place a person on work release shall give rise to any vested statutory right to an individual to be placed on or continued on work release."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1145 CHAPTER 624

AN ACT TO AMEND G.S. 148-60.3 TO CORRECT A TECHNICAL ERROR AND TO DELETE THE SEVEN DAYS' NOTICE REQUIREMENT THEREOF.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 148-60.3 as it appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina is amended by adding in the second sentence thereof the word "committed" after the word "any" and before the word "youthful".

Sec. 2. Subsection (b) of G.S. 148-60.3 is amended by adding a new sentence at the end thereof to read as follows:

"In order that the Parole Commission may have an adequate opportunity to make a determination whether parole under this section should be denied, no misdemeanant eligible for parole under this section shall be released from confinement prior to the fifth full working day after he shall have been placed in the custody of the Secretary of Correction."

Sec. 3. Subsection (c) of G.S. 148-60.3 is amended by deleting the words "at least seven days" after the word "misdemeanant" and before the word "prior" in the third line thereof.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1166 CHAPTER 625

AN ACT TO AMEND ARTICLE 1A OF CHAPTER 90 AND ARTICLE 8 OF CHAPTER 110 TO PROVIDE FOR EMERGENCY MEDICAL TREATMENT OF MINORS OVER PARENTAL OBJECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-21.1 is hereby amended by adding a new subdivision (4) to read as follows:

"(4) Where the parents refuse to consent to a procedure, and the necessity for immediate treatment is so apparent that the delay required to obtain a court order would endanger the life or seriously worsen the physical condition of the child. No treatment shall be administered to a child over the parent's objection

as herein authorized unless the physician shall first obtain the opinion of another physician licensed to practice medicine in the State of North Carolina that such procedure is necessary to prevent immediate harm to the child.

Provided, however, that the refusal of a physician to use, perform or render treatment to a minor without the consent of the minor's parent, guardian, or person standing in the position of *loco parentis*, in accordance with this act, shall not constitute grounds for a civil action or criminal proceedings against such physician."

Sec. 2. G.S. 110-118(d)(1) is hereby amended by rewriting the same to read as follows:

"(1) May retain temporary physical custody of the child and may render necessary medical treatment to the child, in which event said hospital, clinic, or medical facility".

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1168 CHAPTER 626

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES TO CHANGE THE TITLE OF EXECUTIVE SECRETARY OF COUNTY BOARDS OF ELECTIONS TO SUPERVISOR OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes of North Carolina is hereby amended by deleting the words "executive secretary" wherever they appear therein, and by inserting in lieu thereof the words "supervisor of elections" and by deleting the words "executive secretaries" wherever they appear and inserting in lieu thereof the words "supervisors of elections".

Sec. 2. It is the intent of this act to substitute the title "supervisor of elections" for the title "executive secretary" of the county boards of elections in Chapter 163 of the General Statutes, but not to change the title "Executive Secretary-Director" of the State Board of Elections, as it appears in Chapter 163 of the General Statutes.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1215 CHAPTER 627

AN ACT TO CREATE A YOUTH SERVICES ADVISORY COMMITTEE, TO ABOLISH THE COMMISSION OF YOUTH SERVICES AND THE TECHNICAL ADVISORY COMMITTEE, AND TO MAKE CONFORMING AND TECHNICAL CORRECTIONS IN THE GENERAL STATUTES.

Whereas, the Secretary of Human Resources has been unable to exercise the management authority over the Division of Youth Services which was granted by the Executive Organization Act of 1973 because of the powers of the Commission of Youth Services over the management of the division and the training schools; and

Whereas, there exists a fragmentation of effort regarding the development of community-based services as alternatives to institutions because of the

ambiguous and divided authority of the Secretary of Human Resources, the Technical Advisory Committee on Delinquency Prevention and Youth Services, and the Commission of Youth Services; and

Whereas, there exists a need for a coordinated and cooperative approach to youth services, taking into account each component within the Department of Human Resources: delinquency prevention programs, community-based services and training schools; and

Whereas, under House Bill 456 and the Executive Organization Act of 1973 duly enacted by the General Assembly, and with the advice of an expert committee of concerned and informed citizens and legislators, the Secretary of Human Resources should have primary responsibility to develop—and to aid local communities and counties as they develop—programs for the previously mentioned youth services; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 21 of Article 3 of Chapter 143B of the General Statutes is hereby rewritten to read as follows:

"PART 21.

"Youth Services Advisory Committee.

"§ 143B-207. *Committee created; duties.*—There is hereby created the Youth Services Advisory Committee of the Department of Human Resources to advise the Secretary of Human Resources in the development of youth services' programs. The Youth Services Advisory Committee shall have the following duties:

(1) to study available literature and research findings concerning juvenile delinquency, its causes, and various treatment models, and to make recommendations to the Secretary of Human Resources regarding programs which will provide effective treatment and rehabilitation for children in institutions and in community-based programs;

(2) to advise the Secretary in encouraging the development of delinquency prevention programs and community-based services by private groups so that such programs can be responsive to local needs, so that local leadership and private groups can be responsible for their programs, so that programs which meet State standards can be assisted by available State and federal funds, and so that available private funds can be utilized with State, federal and local government funds where appropriate;

(3) to advise the Secretary of its recommendations for the development of a program which would coordinate the resources of State government within the appropriate departments in order to provide technical assistance to local areas within the State in planning delinquency prevention programs and community-based services for youth;

(4) to advise the Secretary of its recommendations for program evaluation standards for delinquency prevention programs, community-based services, both residential and non-residential, and institutional treatment programs;

(5) to advise the Secretary in the development of delinquency prevention programs and community-based services under public auspices where there is no local private leadership;

(6) to make recommendations to the Secretary of Human Resources for transmittal to the Juvenile Justice Planning Committee as it develops a comprehensive plan for juvenile justice;

(7) to make recommendations to the Secretary of Human Resources for transmittal to the Social Services Commission when it considers proposed standards for the placement and supervision of delinquent children under the authority of G.S. 143B-153(2)c.;

(8) to review for the Secretary of Human Resources any applications referred to it for federal funds for training schools, delinquency prevention programs and community-based services and to make recommendations to the secretary on the department's priorities for such proposed programs and the appropriate use of available federal funds;

(9) to advise and assist the Secretary of Human Resources on any other matter which the secretary may refer to it.

"§ 143B-208. *Composition of committee; terms; vacancies; meetings; expenses, etc.*—The Youth Services Advisory Committee shall consist of 11 members. The Governor shall appoint five members: one person who represents a private delinquency prevention program and four concerned citizens who have some knowledge about juvenile delinquency, community-based services, and training schools. Two members shall be the Director of the Administrative Office of the Courts and the Superintendent of Public Instruction or their designees.

Four members shall be appointed from the General Assembly, two by the Speaker of the House of Representatives and two by the President of the Senate, who shall be members of the General Assembly with an interest in youth problems.

Initial appointments to the committee shall be made as soon as practical after the effective date of this legislation but no later than July 1, 1977, for terms that expire on July 1, 1979. Thereafter, the appointment of members shall be made as provided above for terms of two years. Any appointment to fill a vacancy on the committee created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The committee shall meet at least once in each quarter and may hold special meetings at any time and place within the State on the call of the chairman or upon the written request of five members. A majority of the committee members shall constitute a quorum for the transaction of business. The Governor shall select the chairman who shall serve at the pleasure of the Governor. The committee shall elect a vice-chairman who shall serve for a term of one year.

The members of the committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

The Governor shall have the power to remove any member of the committee from office for misfeasance, malfeasance or nonfeasance in accordance with G.S. 143B-16.

All necessary clerical and other services required by the committee shall be supplied by the Secretary of Human Resources."

Sec. 2. The title of Article 1 of Chapter 134A of the General Statutes is hereby deleted and the following substituted therefore: "Division of Youth Services in the Department of Human Resources."

Sec. 3. G.S. 134A-2(2) and (6), as the same appear in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, are hereby repealed.

Sec. 4. G.S. 134A-2(13), as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by

deleting the word "Commission" and substituting therefor the word "Secretary".

Sec. 5. The following sections of the General Statutes of North Carolina dealing with the Commission of Youth Services are hereby repealed: G.S. 134A-3, G.S. 134A-4, G.S. 134A-5, and G.S. 134A-7.

Sec. 6. Article 1 of Chapter 134A of the General Statutes is hereby amended by adding a new section 134A-8 to read as follows:

"§ 134A-8. *Powers and duties of Secretary of Human Resources.*—The secretary shall have the following powers and duties:

(1) to give leadership to the implementation as appropriate of State policy which requires that training schools be phased out as populations diminish;

(2) to close a State training school when its operation is no longer justified and to transfer State funds appropriated for the operation of any training school which is closed to fund community-based programs or to purchase care or services for pre-delinquents, delinquents or status offenders in community-based or other appropriate programs or to improve the efficiency of existing training schools, provided such actions are approved by the Advisory Budget Commission;

(3) to develop a sound admission or intake program to youth services institutions, including the requirement of a careful evaluation of the needs of each child prior to acceptance and placement;

(4) to assure quality programs in youth services institutions or youth services programs which shall be designed to meet the needs of children in care or receiving services;

(5) to provide a quality educational program in each training school, including vocational education which is realistic in relation to available jobs, and to administer this educational system with the advice of the Youth Services Advisory Committee;

(6) to have all other powers of a secretary in relation to a division of youth services or youth services institutions or youth services programs as provided by the Executive Organization Act of 1973 as amended and codified in General Statutes Chapter 143B or as provided by any other appropriate State law."

Sec. 7. Article 2 of Chapter 134A of the General Statutes is hereby repealed.

Sec. 8. G.S. 134A-18 is amended by deleting the word "Director" from line two and substituting therefor the word "Secretary" and by deleting the words "specified by the rules and regulations of the Commission" in line 6 and substituting therefor the words "required by the Secretary" and by deleting the words "under rules and regulations of the Commission" in line 12 and placing a period after the word "child" in line 12.

Sec. 9. G.S. 134A-20 is amended by changing the word "Commission" in line 7 to "Secretary" and by deleting the words "under the guidance of the Commission" in lines 1 and 2.

Sec. 10. G.S. 134A-22 is amended by deleting the word "Commission" in line 3 and substituting therefor the word "Secretary" and by deleting the words "and under rules and regulations adopted by the Commission" in line 4 and placing a period after the word "funds" in line 3.

Sec. 11. G.S. 134A-26 is amended by deleting the words "under rules and regulations of the Commission" in lines 2 and 3 and also in lines 4 and 5, and by

placing a period after the word "care" in line 2 and after the word "care" in line 4.

Sec. 12. G.S. 134A-30 is amended by deleting the words "under the rules and regulations of the Commission" in lines 5 and 6 and placing a period after the word "State" in line 5.

Sec. 13. G.S. 134A-31 is amended by deleting the words "be defined by rules and regulations of the Commission, but the process shall" in lines 6 and 7 so that the third sentence reads as follows: "This prerelease planning process shall include the following:".

Sec. 14. G.S. 134A-32 is amended by deleting the words "under rules and regulations governing release which shall be approved by the Commission," in lines 4 and 5.

Sec. 15. G.S. 134A-33 is amended by deleting the words "under rules and regulations approved by the Commission" in lines 12 and 13 and by placing a period after the word "Article".

Sec. 16. G.S. 134A-39(1) is amended by deleting the words "Which shall be effective when approved by the Commission" at the end of subsection (1) and by placing a period after the word "Article".

Sec. 17. G.S. 7A-286(5) as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by deleting the word "Correction" from the second line of the subsection and substituting therefor the words "Human Resources".

Sec. 18. G.S. 7A-289.13(4) is hereby amended by deleting the words "Committee on Law and Order" therefrom and substituting therefor the words "Crime Commission".

Sec. 19. G.S. 7A-289.13(5) is hereby amended by deleting the words "in conjunction with the Technical Advisory Committee described in G.S. 143B-207 of this Article".

Sec. 20. G.S. 7A-289.14(2) is hereby repealed.

Sec. 21. G.S. 7A-289.14(3) is hereby amended by deleting the words "Technical Advisory Committee" therefrom and substituting therefor the words "Youth Services Advisory Committee".

Sec. 22. G.S. 7A-289.14(6) is hereby amended by deleting the words "Technical Advisory Committee" therefrom and substituting therefor the word "Secretary".

Sec. 23. G.S. 7A-289.14(7) is hereby amended by deleting the words "in coordination with the Technical Advisory Committee as described in G.S. 143B-207 of this Article".

Sec. 24. G.S. 7A-289.15 is hereby amended by deleting therefrom the words "Technical Advisory Committee" and substituting therefor the words "Secretary of Human Resources".

Sec. 25. Section 5 of Chapter 742 of the 1975 Session Laws passed by the North Carolina General Assembly is hereby repealed.

Sec. 26. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1229 CHAPTER 628

AN ACT TO ALLOW A LOCAL HEALTH DIRECTOR TO CONFINE AN ANIMAL HAVING RABIES OR SUSPECTED OF HAVING RABIES IF THE OWNER REFUSES TO DO SO.

The General Assembly of North Carolina enacts:

Section 1. Section 106-380 of the General Statutes is hereby amended by adding the following sentence immediately after the last sentence of the present text of the section:

"If the owner of or a person who has in his possession or under his control an animal having rabies or suspected of having rabies refuses to confine the animal as required by this section or by G.S. 106-378, the local health director may order seizure of the animal and its confinement for 10 days in such place as the director designates, the expense to be paid by the owner."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1255 CHAPTER 629

AN ACT AMENDING THE MILK COMMISSION RULES FILING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-266.8(7), as the same appears in the 1975 Replacement Volume 3A of the General Statutes, is hereby amended by striking the words "Secretary of State and with each clerk of the superior court" from the sixth line of the seventh subsection thereof, and substituting therefor the words "Attorney General".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1257 CHAPTER 630

AN ACT TO AMEND G.S. 105-360(a)(1) TO PROVIDE FOR A GRACE PERIOD FOR PAYMENT OF COUNTY AND MUNICIPAL TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-360(a)(1) is hereby amended by deleting the word "first" in the first line of G.S. 105-360(a)(1) and insert in lieu thereof the word "fourth".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1258 CHAPTER 631

AN ACT TO AMEND ARTICLE 3 OF CHAPTER 135 OF THE GENERAL STATUTES TO PROVIDE A CONTRIBUTORY MEDICAL AND HOSPITAL BENEFIT CARE PLAN FOR MEMBERS AND FORMER MEMBERS OF THE GENERAL ASSEMBLY, THEIR SPOUSES, AND DEPENDENTS TO BE ADMINISTERED BY THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 135 of the General Statutes of North Carolina is hereby amended by the addition of a new section to be designated G.S. 135-33.1 and reading as follows:

"§ 135-33.1. *General Assembly medical and hospital care benefit plan.*—The board of trustees of the retirement system shall formulate, establish and administer for members of the General Assembly, their spouses and dependents a program of hospital and medical care benefits similar to the program provided for teachers and State employees which shall be paid for solely by contributions of the beneficiaries of such program. Any former member of the General Assembly or his surviving spouse may obtain or continue the same hospital and medical care benefits program for themselves and their dependents until they become ineligible for such benefits according to the rules of ineligibility of the program administered for teachers and State employees, provided that the beneficiaries of such benefits pay the cost of such program. The board of trustees shall further offer any members or former members of the General Assembly, their spouses or surviving spouses who are eligible for Medicare a plan of supplemental insurance designed to provide them with medical and hospital insurance benefits similar to the benefits offered active teachers and State employees, provided the beneficiaries pay the cost of such insurance."

Sec. 2. This act shall become effective upon October 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1288 CHAPTER 632

AN ACT TO AMEND CHAPTER 671 OF THE 1975 SESSION LAWS TO PROVIDE FOR RECONSIDERATION OF ASSESSMENTS BY THE CITY COUNCIL OF THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. Section 77(18), Chapter 671 Session Laws of 1975, is hereby repealed and the following substituted in lieu thereof:

"(18) If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of such assessment, he shall within 15 days after the confirmation of the assessment roll file a written request with the city clerk for reconsideration of said assessment by the city council. If the city council has not previously heard the requesting person on the matter, it shall reconsider the assessment and affirm or modify its action. If it has previously heard the requesting person on the matter, the city council may affirm its previous action without further consideration, or it may, in its discretion, again consider the matter and affirm or modify its previous action. If the requesting person still is dissatisfied with

the city council action, he shall within 20 days after such further action serve on the city clerk a written notice that he is taking an appeal to the Superior Court of Durham County and a statement of facts upon which he bases his appeal. The appeal shall be tried in the Superior Court of Durham County as other actions at law. The remedy herein provided for any person dissatisfied with the amount of the assessment against any property of which he is the owner or in which he is interested shall be exclusive."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1311 CHAPTER 633

AN ACT TO PROVIDE FOR THE ORGANIZATION OF THE GASTON COUNTY BOARD OF EDUCATION, THE NOMINATION AND ELECTION OF ITS MEMBERS, TO DEFINE IN PART THEIR POWERS AND AUTHORITY AND TO REPEAL ALL PUBLIC, PUBLIC-LOCAL AND PRIVATE LAWS IN CONFLICT WITH THIS ACT.

The General Assembly of North Carolina enacts:

Section 1. Definitions.

(a) The term "county" shall mean Gaston County.

(b) The term "administrative unit" shall mean the geographical territory over which the Gaston County Board of Education exercises authority in administrating and operating the public schools of said county.

(c) The term "board of commissioners" shall mean the Board of Commissioners of Gaston County.

(d) The term "board of education" shall mean the Gaston County Board of Education which is empowered to operate and administer all the public schools in the county.

(e) The term "board of elections" shall mean the Gaston County Board of Elections.

(f) The term "presiding officer" is used collectively and includes the chairman, vice-chairman and chairman pro tempore. Where the term "chairman", "vice-chairman" and "chairman pro tempore" is used, it is used advisedly and to the exclusion of the others.

(g) The masculine gender shall be deemed to include the feminine and the neuter as the context may require.

(h) The singular shall be deemed to include the plural as the context may require.

(i) The terms "member at large" and "member elected at large" shall mean one who is elected without regard to residence in any particular township.

Sec. 2. Composition of board of education. Notwithstanding Section 115-18 of the General Statutes of North Carolina, the board of education shall consist of nine members. Two members shall be elected by the duly qualified voters of Gaston County without regard to residence in any particular township and seven members shall be elected by the duly qualified voters of Gaston County from the following townships:

(1) Cherryville Township shall be entitled to one member.

(2) Crowders Mountain Township shall be entitled to one member.

(3) Dallas Township shall be entitled to one member.

(4) Gastonia Township shall be entitled to two members.

(5) Riverbend Township shall be entitled to one member.

(6) Southpoint Township shall be entitled to one member.

Sec. 3. Elections. Notwithstanding Section 115-19 of the General Statutes of North Carolina, at the general election to be held in the year 1978, there shall be elected by the duly qualified voters of Gaston County three members of the board of education, with one member from Cherryville Township, one member from Crowders Mountain Township and one member at large. The term for these three members shall commence on the first Monday in December 1978, and expire at the end of two years thereafter, or on the first Monday in December 1980.

At the general election to be held in the year 1980, there shall be elected by the duly qualified voters of Gaston County six members of the board of education, with one member from Cherryville Township, one member from Crowders Mountain Township, one member from Gastonia Township, one member from Riverbend Township, one member from Southpoint Township and one member at large. Those members elected from Cherryville Township, Crowders Mountain Township, Gastonia Township and the member elected at large shall compose one class, whose term of office shall commence on the first Monday in December 1980, and expire at the end of four years thereafter, or on the first Monday in December 1984. The term of office for those members elected from Riverbend Township and Southpoint Township shall commence on the first Monday in December 1980, and expire at the end of two years thereafter, or on the first Monday in December 1982.

At the general election to be held in the year 1982, there shall be elected by the duly qualified voters of Gaston County five members of the board of education, with one member from Dallas Township, one member from Gastonia Township, one member from Riverbend Township, one member from Southpoint Township and one member at large. These five members shall compose another class, whose terms of office shall commence on the first Monday in December 1982, and expire at the end of four years thereafter, or on the first Monday in December 1986.

Upon the expiration of the term of office of each class of members of the board of education (the term class shall exclude the members elected for a term of two years) their successors shall be elected to hold office for four years and until their successors are elected and qualified.

The election of members of the board of education shall be held, conducted and supervised by the board of elections; and except as herein provided, the general election laws and regulations for the nomination and election of county officers, which are set forth in Chapter 163 of the General Statutes of North Carolina, as amended, shall apply and govern as to the holding of any election for members of the board of education.

Sec. 4. Ballot; notice of candidacy and residence requirements. The names of the candidates shall be placed on a separate ballot bearing no party designation, and no party affiliation need be indicated at the time of filing. Each candidate shall file a notice of candidacy with the board of elections indicating whether he is running as a member at large or from a particular township at any time after 12:00 noon on the Friday preceding the twelfth

Saturday and before 12:00 noon on the Friday preceding the eighth Saturday before the general election. A candidate seeking to represent a particular township shall be a resident and qualified voter of said township.

Sec. 5. Filing fee. Each candidate shall pay a filing fee of fifteen dollars ($15.00) to the board of elections at the time of filing his notice of candidacy.

Sec. 6. Absentee voting. Absentee voting shall be permitted for members of the board of education.

Sec. 7. Vacancy. Notwithstanding Section 115-24 of the General Statutes of North Carolina, all vacancies in the membership of the board of education by death, resignation, or other causes shall be filled by the remaining members of the board of education by the appointment of a person to serve until the next election of members of such board at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election. In the event that the replacement is not selected by the board of education within a period of 90 days after the vacancy occurs, such vacancy shall be filled by the board of commissioners. When one who has been elected at large vacates his office, the successor may be selected without regard to the location of his residence in the county. When one who has been elected from a township vacates his office, the successor shall be selected from that same township.

Sec. 8. Compensation of members. The board of commissioners may fix the compensation of the members of the board of education in such sums as may be just and reasonable. Any change in compensation of members of the board of education shall not take effect until after the next succeeding general election. The members of the board of education shall be entitled to reimbursement for actual expenses incurred in the course of performing their official duties at rates not in excess to those allowed other employees and officials of the board of education.

Sec. 9. Oaths of office. Each newly elected or appointed member of the board of education, before taking office, shall meet at a time and place to be designated by the board of education and shall then and there take an oath to support the Constitution and laws of the United States of America, to support the Constitution and laws of the State of North Carolina and to discharge the duties imposed upon him by virtue of his office as a member of the board of education with fidelity and integrity and to the best of his ability, which oath shall be administered by the superintendent of schools or by some person authorized by law to do so. Anyone who is not present at the time and place provided for by this section may take the oath thereafter as directed by the board of education.

Sec. 10. Organizational meeting. An organizational meeting of the board of education shall be held on the first Monday in December of each biennium following the date of election of its members. The board of education shall elect from its members a chairman and a vice-chairman and may appoint an assistant secretary who shall not be a member of the board of education. The superintendent of schools shall serve as chairman pro tempore during the election of officers but shall have no right to vote on any matter. The organization of the board of education shall take place notwithstanding the absence, death, refusal to serve or nonelection of one or more members, provided that at least a quorum is present.

Sec. 11. Regular and special meetings. The board of education shall fix a time for its regular meetings, which shall be at least monthly. The chairman, or in the event of his absence or disability, the vice-chairman, or any three members of the board of education may at any time call a special meeting by signing a written notice stating the time, place and purpose of the meeting, which notice shall be delivered to each member or left at his dwelling and also at his place of business at least eight hours before the meeting. However, notice of a special meeting of the board of education may be waived by any member either before or after the meeting by written assent; and attendance at the meeting shall constitute waiver of such notice by such member. Special meetings of the board of education may also be held at any time when the chairman and all other members of the board of education are present and consent thereto or when called or announced at a regular meeting of the board of education, provided, that written notice is given to all members absent from the regular meeting.

Only the business stated in the written notice may be transacted at a special meeting, except when the chairman and all other members of the board of education are present and consent to the transaction of other business.

Unless otherwise specifically provided by this act, the board of education shall have authority to make such provisions as it may deem wise relative to regular, special, adjourned and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner and method of the exercise of its powers. All meetings of the board of education shall be held at the school administration offices unless the board of education decides otherwise.

Sec. 12. Quorum. A majority of the members of the board of education shall constitute a quorum.

Sec. 13. Voting by members of board of education. A majority vote of those present shall be required to constitute action, provided that at least a quorum is present.

No member of the board of education, other than the presiding officer, shall be excused from voting except upon matters involving the consideration of his own official conduct or involving matters in which he has a financial or prejudicial interest. The question of a compensation and allowances of the members of the board of education is not a matter involving a member's own financial interest or official conduct. In all other cases, a failure to vote by a member of the board of education who is physically present at the meeting, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. A member of the board of education who has withdrawn from a meeting without being excused shall be counted as present for the purpose of determining whether or not a quorum is present.

The presiding officer shall have the same power as the other members of the board of education to vote on all matters coming before the board of education but shall not be required to vote except when his vote is necessary for determinative action. On any such matters when his vote is required for determinative action, the presiding officer shall not be excused from voting except on matters in which he has a financial or prejudicial interest or in which his own official conduct is to be considered. Failure of the presiding officer to vote when present on any such matters when his vote is required by this section shall be deemed an affirmative vote and shall be so recorded. When the

presiding officer has withdrawn from a meeting without being excused he shall be counted as present for the purpose of determining whether or not a quorum is present. No presiding officer shall have the authority to cast a vote to create a tie and then vote again to break the tie.

Sec. 14. Board of education; exercise of powers. In order to provide an adequate school system, the board of education shall exercise all the powers, authority and duties prescribed for city and county boards in Chapter 115 of the General Statutes of North Carolina as revised and amended and as the same may hereafter be revised and amended. In addition to other powers conferred upon it by law, the board of education may adopt and provide for the execution of such rules and regulations, not inconsistent with this act, as may be necessary or appropriate for the proper administration of the schools in the administrative unit.

As provided in Sections 115-32 and 115-33 of the General Statutes of North Carolina, the board of education shall have the power to investigate the affairs of the schools in the administrative unit and for that purpose may subpoena witnesses, administer oaths and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this section, the board of education may apply to the General Court of Justice for enforcement of its order and the court shall have jurisdiction to issue such order after notice to all proper parties. No testimony of any witness before the board of education pursuant to a subpoena issued in exercise of the power conferred by this section may be used against him in the trial of any civil or criminal action other than a prosecution for the false swearing committed on the examination. If any person testifying under oath at any investigation by the board of education willfully swears falsely, he shall be guilty of a misdemeanor.

Sec. 15. Officers.

(a) Chairman. The chairman shall preside at all meetings of the board of education, shall appoint all committees unless otherwise directed by the board of education, shall have general charge of the activites of the board of education and shall see that all resolutions and motions adopted by the board of education are carried into effect.

(b) Vice-chairman. The vice-chairman shall, in the absence or disability of the chairman, perform the duties and exercise the powers of the chairman and shall perform such other duties as the board of education shall prescribe.

(c) Secretary. The secretary shall be the superintendent of schools, and he shall

(1) attend all sessions of the board of education;

(2) record the minutes of all proceedings in a book to be kept for that purpose;

(3) give or cause to be given notice of all meetings of the board of education;

(4) take care of all correspondence under the supervision of the chairman;

(5) issue all notices and orders that may be made by the board of education;

(6) be executive officer of the board of education as prescribed by Chapter 115 of the General Statutes of North Carolina; and

(7) perform such other duties as may be assigned to him by the board of education.

(d) Assistant secretary. An assistant secretary, if appointed, shall, in the event of the absence or disability of the secretary, perform the functions of the secretary.

(e) Chairman pro tempore. In the absence of both chairman and vice-chairman, a chairman pro tempore shall be chosen to preside at any meeting and if so presiding he shall have the right to vote upon all questions.

Sec. 16. Removal of chairman or vice-chairman. The chairman and vice-chairman, either or both, may be removed as chairman or vice-chairman by the board of education for or without cause at any regular or special meeting of which at least five days' written notice shall be given to all members, provided that:

(a) it be stated in the notice of such meeting that among the objects thereof shall be removal of such officer or officers; and

(b) it shall require the affirmative vote of a majority of the whole board of education, at the time in office, to remove either the chairman or vice-chairman prior to the expiration of his term as chairman or vice-chairman.

Sec. 17. Replacement for chairman or vice-chairman. In the event of the death, resignation or removal of the chairman or vice-chairman, the board of education shall select, within 60 days after the office is vacated, a successor to serve until the first Monday of December which follows the last day for filing for the next regular biennial election.

Sec. 18. Official bonds. The officers and employees of the board of education, both elective and appointive, shall execute such official bonds in such amounts and upon such terms and conditions as the board of education may from time to time require. The board of education may purchase and pay the premiums for such bonds if it elects to do so.

Sec. 19. Partial invalidity. If any clause, sentence, paragraph or provision of this act shall for any reason be adjudged by any court to be unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, paragraph or provision adjudged unconstitutional or invalid.

Sec. 20. Captions. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this act nor the intent of any provision thereof.

Sec. 21. Conflict with other law. All laws and clauses of laws which may be in conflict with this act, to the extent of such conflict, are hereby repealed: provided, that nothing herein shall in any manner affect the provisions of Chapter 906 of the 1967 Session Laws of North Carolina relating to the issuance of the twenty million dollar ($20,000,000) school building bonds of the county, to the levying of a countywide supplemental school tax not to exceed fifty cents (50¢) per one hundred dollars ($100.00) assessed valuation and to the vesting of title to all real and personal property nor affect the provisions of Chapter 980 of the 1969 Session Laws of North Carolina also relating to the vesting of title to all real and personal property in the board of education.

Sec. 22. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1513 **CHAPTER 634**

AN ACT TO INCREASE THE SIZE OF THE CARTERET COUNTY BOARD OF ALCOHOLIC CONTROL FROM THREE MEMBERS TO FIVE MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Section 18A-16 of the General Statutes, the County Board of Alcoholic Control in Carteret County shall have five members. The two additional members shall be chosen at the same time and in the same manner as the member chosen to fill the next existing term to expire after the effective date of this act. The manner of choosing the members and the chairman shall be as provided by Section 18A-16 of the General Statutes. The two additional members shall serve for terms of three years, beginning with the time of their appointment.

Sec. 2. This act shall become effective June 30, 1977.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 666 **CHAPTER 635**

AN ACT TO REQUIRE DISCLOSURE DETAIL REGARDING PROCEEDS FROM LOANS USED BY CANDIDATES FOR POLITICAL OFFICE AND POLITICAL COMMITTEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.8 is amended by adding a new paragraph to be numbered and to read as follows:

"(g) All proceeds from loans shall be recorded separately with a detailed analysis reflecting the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers."

Sec. 2. G.S. 163-278.11(a) is amended by adding a new paragraph to be numbered and to read as follows:

"(3) Loans. Every candidate and treasurer shall attach to the campaign transmittal submitted with each report an addendum listing all proceeds derived from loans for funds used or to be used in this campaign. The addendum shall be in the form as prescribed by the State Board of Elections and shall list the amount of the loan, the source, the period, the rate of interest, and the security pledged, if any, and all makers and endorsers."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 774 CHAPTER 636

AN ACT TO REGULATE HUNTING IN BURKE, CALDWELL AND CERTAIN OTHER COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. The fox is hereby classified as a game animal and may be taken only with dogs at any time during the day or night.

Sec. 2. Foxes, or parts thereof, shall not be bought or sold, except live foxes may be bought or sold for the purpose of restocking.

Sec. 3. Violation of any statute pertaining to the taking and possessing of game animals shall be a misdemeanor, punishable by a fine of not less than two hundred dollars ($200.00) or imprisonment for six months or by both fine and imprisonment. Upon conviction of any person violating any provision of this act, said person shall immediately surrender to the court any hunting license or fur dealer's license currently held by him and said person shall not be eligible to hold a hunting license or a fur dealer's license for a period of one year from the date of said conviction.

Sec. 4. This act shall apply only to Burke, Caldwell, Harnett, Lee, Pamlico and Martin Counties.

Sec. 5. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 1305 CHAPTER 637

AN ACT TO PROVIDE FOR ONE REPRESENTATIVE FROM EACH CONGRESSIONAL DISTRICT ON THE VETERANS' AFFAIRS COMMISSION AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-253, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, which was transferred to Article 9 of Chapter 143B by Section 24, Chapter 70 of the 1977 Session Laws, and which was renumbered as G.S. 143B-400 by Section 25 of Chapter 70 of the 1977 Session Laws, is hereby amended and rewritten to read as follows:

"§ 143B-253. *Veterans' Affairs Commission - members; selection; quorum; compensation.*—The Veterans' Affairs Commission of the Department of Administration shall consist of one voting member from each Congressional district, all of whom shall be veterans, appointed by the Governor for four-year terms. In making these appointments, the Governor shall insure that both major political parties will be continuously represented on the Veterans' Affairs Commission.

The initial members of the commission shall be the appointed members of the current Veterans' Affairs Commission who shall serve for the remainder of their current terms and six additional members appointed by the Governor for terms expiring June 30, 1981. Thereafter, all members shall be appointed for terms of four years. Any appointment to fill a vacancy on the commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the commission in accordance with provisions of G.S. 143B-13.

In the event that more than 11 Congressional districts are established in the State, the Governor shall on July 1 following the establishment of such additional Congressional districts appoint a member of the commission from that Congressional district. If on July 1, 1977, or at any time thereafter due to Congressional redistricting, two or more members of the Veterans' Affairs Commission shall reside in the same Congressional district then such members shall continue to serve as members of the commission for a period equal to the remainder of their current terms on the commission provided that upon the expiration of said term or terms the Governor shall fill such vacancy or vacancies in such a manner as to insure that as expeditiously as possible there is one member of the Veterans' Affairs Commission who is a resident of each Congressional district in the State.

The Governor shall designate from the membership of the commission a chairman and vice-chairman of the commission who shall serve at the pleasure of the Governor. The Secretary of the Department of Administration or his designee shall serve as secretary of the commission.

Members of the commission shall receive per diem and necessary travel and subsistence expenses in accordance with provisions of G.S. 138-5.

A majority of the commission shall constitute a quorum for the transaction of business.

The Veterans' Affairs Commission shall meet at least twice a year and may hold special meetings at any time or place within the State at the call of the chairman, at the call of the Secretary of the Department of Administration or upon the written request of at least six members.

All clerical and other services required by the commission shall be provided by the Secretary of the Department of Administration."

Sec. 2. Whenever the words "Secretary of Military and Veterans' Affairs" are used in the provisions of G.S. 143B-252 as the same appears in the 1974 Replacement Volume 3C of the General Statutes, which was transferred to Article 9 of G.S. 143B by Section 24 of Chapter 70 of the 1977 Session Laws and which was renumbered as G.S. 143B-399 by Section 25 of Chapter 70 of the 1977 Session Laws, the same shall be deleted and the words "Secretary of the Department of Administration" shall be inserted in lieu thereof.

Sec. 3. There is enacted G.S. 143B-400.1 which shall read as follows:

"§ 143B-400.1. *Veterans' Affairs Commission Advisory Committee - members; compensation.*—The department commander or official head of each veterans' organization which has been chartered by an act of the United States Congress and which is legally constituted and operating in this State pursuant to said charter shall constitute an Advisory Committee to the Veterans' Affairs Commission. Members of the Veterans' Affairs Commission Advisory Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5."

Sec. 4. The terms of any of the current members of the Veterans' Affairs Commission which expire on May 16 of any year are hereby extended to expire on June 30 of such particular year.

Sec. 5. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the Department of Administration, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

S. B. 665 CHAPTER 638

AN ACT RELATING TO WEIGHT TOLERANCE FOR PICKUP TRUCKS LICENSED FOR MINIMUM WEIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88(a) is hereby amended by striking the figures "20-38(39)" appearing at the end thereof and inserting in lieu thereof the figures "20-4.01(50)" and by adding a new sentence at the end thereof to read: "Those property hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of 500 pounds above the weight permitted under the table of weights and rates appearing in subsection (b) of this section."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

S. B. 769 CHAPTER 639

AN ACT TO EXEMPT OR DEFER THE REMOVAL OF CERTAIN DIRECTIONAL SIGNS, DISPLAYS, AND DEVICES PURSUANT TO SECTION 131 OF TITLE 23 OF THE UNITED STATES CODE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is hereby amended by adding a new Article thereto to read as follows:

"ARTICLE 11A.

"Exemption and Deferment from Removal of Certain Directional Signs, Displays, and Devices.

"§ 136-140.1. *Declaration of policy.*—Notwithstanding any other provision of law, the State of North Carolina hereby finds and declares that the removal of certain directional signs, displays, and devices, lawfully erected under State law in force at the time of their erection, which do not conform to the requirements of subsection (C) of 23 U.S.C. 131, which provide directional information about goods and services in the interest of the traveling public, and which were in existence on May 6, 1976, may work a substantial economic hardship in certain defined areas, and shall be exempt according to Section 131 United States Code and the rules and regulations promulgated pursuant thereto.

"§ 136-140.2. *Definitions.*—As used in this Article: 'Motorist services directional signs' means signs, displays, and devices giving directional information about goods and services in the interest of the traveling public, including but not limited to:

(1) places of public lodging;

(2) places where food is served to the public on a regular basis;

(3) places where automotive fuel or emergency automotive repair services, including truck stops, are regularly available to the public;

(4) educational institutions;

(5) places of religious worship;

(6) public or private recreation areas, including campgrounds, resorts and attractions, natural wonders, wildlife and water fowl refuges, and nature trails;

(7) plays, concerts and fairs;
(8) antiques, gift and souvenir shops;
(9) agricultural products in a natural state, including vegetables and fruit.

"§ 136-140.3. *Exemption procedures.*—The North Carolina Department of Transportation shall upon receipt of a declaration, petition, resolution, certified copy of an ordinance, or other clear direction from a board of county commissioners, municipality, county, city, provided that such resolution is not in conflict with existing statute or ordinance, that removal of motorist services directional signs would cause an economic hardship in a defined area, shall forward such declaration, resolution, or finding to the Secretary of the North Carolina Department of Transportation for inclusion as a defined hardship area qualifying for exemption pursuant to 23 U.S.C. 131 (O). Any such declaration or resolution submitted to the North Carolina Department of Transportation shall further find that such motorist service signs provided directional information about goods and services in the interest of the traveling public and shall request the retention by the State of said directional motorist services signs as defined herein. The North Carolina Department of Transportation shall thereupon comply with all regulations issued both now and hereafter by the Federal Highway Administration necessary for application for the exemption provided in 23 U.S.C. 131 (O), provided such motorist services directional signs were lawfully erected under State law at the time of their erection and were in existence on May 5, 1976. The petitioner seeking exemption of those signs defined in G.S. 136-140.2 shall furnish the information required by the United States Department of Transportation to the North Carolina Department of Transportation and the North Carolina Department of Transportation shall request exemption from the United States Department of Transportation.

"§ 136-140.4. *Deferment.*—The North Carolina Department of Transportation shall adopt programs to assure that removal of directional signs, displays or devices, providing directional information about goods and services in the interest of the traveling public, not otherwise exempted by economic hardship, be deferred until July 1, 1979."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

S. B. 780

CHAPTER 640

AN ACT TO CHANGE THE WESTERN BOUNDARY LINE OF THE TOWN OF ALLIANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 760, Session Laws of 1965, is amended by deleting from the description of the corporate limits, beginning on line 6 from the end thereof, the following words:

"thence from said point of intersection in a straight line to the intersection of the center line or thread of the waters of the South Prong of Bay River with the waters of Pot Branch;"

and inserting in lieu thereof the following:

"Thence from said point of intersection across the Jesse R. Boyd property southerly in a straight line to the northwest corner of the Dalton Hardison Jr.

parcel; thence in a southerely direction along the western property lines of Dalton Hardison, Jr. and Clifton Gaskill a distance of 910 feet, more or less, to the southwest corner of the Clifton Gaskill parcel; thence in a easterly direction along the southern property lines of Clifton Gaskill, Louis E. Daniels and J. W. Whitfield a distance of 610 feet, more or less, to the southeast corner of the J. W. Whitfield parcel; thence in a southeasterly direction along the eastern property line of B. W. Dixon a distance of 700 feet, more or less, to the intersection of the eastern property line of B. W. Dixon (if extended) with the northern property line of Ralph Keel; thence westerly to the northeast corner of the E. L. Williams, Jr. parcel and running with the northern property line of the E. L. Williams, Jr. parcel a distance of 500 feet, more or less, to the northwest corner of the E. L. Williams, Jr. parcel; thence southerly along the common west property line of E. L. Williams, Jr. and the eastern property lines of B. W. Dixon a distance of 450 feet, more or less, to a point in the northern property line of Steve T. Dixon; thence southeasterly along the common property line of Steve T. Dixon and the southern property line of E. L. Williams, Jr. a distance of 350 feet, more or less, to the corner of the Steve T. Dixon property; thence southwesterly along the common east property line of Steve T. Dixon and the northern property line of Elga D. Anderson a distance of 280 feet, more or less, to a corner; thence northwesterly along same common property lines a distance of 300 feet, more or less, to a corner being the northwest corner of th Elga D. Anderson parcel; thence southerly along the common property lines of Steve T. Dixon and Elga D. Anderson a distance of 950 feet, more or less, to a corner being the southwest corner of the Elga D. Anderson parcel; thence easterly along the southern property line of Elga D. Anderson a distance of 650 feet, more or less, to a point in the western right-of-way of S. R. 1347 being the southeast corner of the Elga D. Anderson parcel; thence from said point in a straight line a distance of 1050 feet, more or less, to the intersection of the centerline or thread of the waters of the South Prong of Bay River with the waters of Pot Branch;".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. B. 448 CHAPTER 641

AN ACT TO PROVIDE FOR THE COLLECTION AND DISBURSEMENT OF FAMILY SUPPORT PAYMENTS BY CLERK OF SUPERIOR COURT INSTEAD OF DEPARTMENT OF SOCIAL SERVICES IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 240 of the 1951 Session Laws entitled, "AN ACT RELATING TO THE PAYMENT OF FUNDS IN ABANDONMENT AND NONSUPPORT CASES IN RICHMOND COUNTY", is hereby repealed.

Sec. 2. Chapter 1250 of the 1963 Session Laws entitled, "AN ACT TO PROVIDE FOR THE COLLECTION OF ADDITIONAL COST BY THE CLERK OF COURT IN RICHMOND COUNTY", is hereby repealed.

Sec. 3. All district court and superior court judgments, both criminal and civil, which require the payment of any funds for support of children or spouses into the office of the Department of Social Services in Richmond

County are hereby amended by inserting "The office of the Clerk of Superior Court of Richmond County" in lieu of the "Department of Social Services of Richmond County".

Sec. 4. On June 30, 1977, the director of the Department of Social Services for Richmond County shall transfer to the clerk of court all current support accounts in his office by virtue of court order.

Sec. 5. This act shall become effective on June 30, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1024 CHAPTER 642

AN ACT PROVIDING FOR THE ACCURATE IDENTIFICATION OF RECORDS ORDERED TO BE EXPUNGED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-223, as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is hereby amended by rewriting subsection (c) thereof to read as follows:

"(c) The court shall also order that the said misdemeanor conviction be expunged from the records of the court, and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The sheriff, chief or head of such other arresting agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation. The cost of expunging such records shall be taxed against the petitioner."

Sec. 2. G.S. 90-96(b), as the same appears in the 1975 Cumulative Supplement to Volume 2C of the General Statutes, is hereby rewritten to read as follows:

"(b) Upon the dismissal of such person, and discharge of the proceedings against him under subsection (a) of this section, such person, if he were not over 21 years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the confidential file to be retained by the Administrative Office of the Courts under subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the application the following:

(1) an affidavit by the applicant that he has been of good behavior during the period of probation since the decision to defer further proceedings on the misdemeanor in question and has not been convicted of any felony, or misdemeanor, other than a traffic violation, under the laws of the United States or the laws of this State or any other state;

(2) verified affidavits by two persons who are not related to the applicant or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives, and that his character and reputation are good;

(3) affidavits of the clerk of superior court, chief of police, where appropriate, sheriff of the county wherein the petitioner was convicted, and official records of the Federal Bureau of Investigation and the State

Bureau of Investigation, all showing that the applicant has not been convicted of a felony or misdemeanor under the laws of the United States or the laws of this State or any other state at any time prior to the conviction for the misdemeanor in question or during the period of probation following the decision to defer further proceedings on the misdemeanor in question.

If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over 21 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person in the contemplation of the law to the status he occupied before such arrest or indictment or information. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

The court shall also order that said conviction and the records relating thereto be expunged from the records of the court, and direct all law enforcement agencies bearing records of the same to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff, chief of police or other arresting agency, as appropriate, shall forward such order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation."

Sec. 3. G.S. 90-113.14(b), as the same appears in the 1975 Cumulative Supplement to Volume 2C of the General Statutes, is hereby rewritten to read as follows:

"(b) Upon the dismissal of such person, and discharge of the proceedings against him under subsection (a) of this section, such person, if he were not over 21 years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the confidential file to be retained by the Administrative Office of the Courts under subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the application the following:

(1) an affidavit by the applicant that he has been of good behavior during the period of probation since the decision to defer further proceedings on the misdemeanor in question and has not been convicted of any felony, or misdemeanor, other than a traffic violation, under the laws of the United States or the laws of this State or any other state;

(2) verified affidavits by two persons who are not related to the applicant or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives, and that his character and reputation are good;

(3) affidavits of the clerk of superior court, chief of police, where appropriate, sheriff of the county wherein the petitioner was convicted, and official records of the Federal Bureau of Investigation and the State Bureau of Investigation, all showing that the applicant has not been convicted of a felony or misdemeanor under the laws of the United States or the laws of this State or any other state at any time prior to

the conviction for the misdemeanor in question or during the period of probation following the decision to defer further proceedings on the misdemeanor in question.

If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over 21 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person in the contemplation of the law to the status he occupied before such arrest or indictment or information. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

The court shall also order that said conviction and the records relating thereto be expunged from the records of the court, and direct all law enforcement agencies bearing records of the same to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff, chief of police or other arresting agency, as appropriate, shall forward such order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1070 **CHAPTER 643**

AN ACT TO AUTHORIZE THE ISSUANCE OF THREE HUNDRED MILLION DOLLARS OF BONDS OF THE STATE TO PROVIDE FUNDS FOR THE CONSTRUCTION OF HIGHWAYS SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known and may be cited as the "State Highway Bond Act of 1977".

Sec. 2. Subject to a favorable vote of a majority of the qualified voters of the State who shall vote in an election called and held as hereinafter provided, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, bonds of the State to be designated "State of North Carolina Highway Bonds" in an aggregate principal amount not exceeding three hundred million dollars ($300,000,000) for the purpose of providing funds, with any other funds available therefor, for constructing, improving or relocating roads, bridges, tunnels and other highway facilities constituting at the time of such construction, improvement or relocation a part of the State highway system.

Sec. 3. The proceeds of said bonds are hereby appropriated to the North Carolina Department of Transportation, which appropriation shall be in addition to all other appropriations heretofore made or which may be made at the present session of the General Assembly. Said proceeds shall be used by the North Carolina Board of Transportation, except as provided in Section 8 of this act, exclusively for the purpose provided in Section 2 of this act, and the

particular projects within such purpose to be financed in whole or in part from said proceeds shall be determined from time to time by the North Carolina Board of Transportation. Said proceeds shall be disbursed for said projects upon warrants drawn by the State Disbursing Officer, which warrants shall not be drawn until an allotment has been approved by the Director of the Budget, and which allotment shall be approved after full compliance with the Executive Budget Act, Article 1, Chapter 143 of the General Statutes.

Obligations by contract or work order for the construction, improvement or relocation of highway facilities, including obligations for engineering services and the acquisition of land requiring the use of proceeds of the sale of bonds or bond anticipation notes authorized under the provisions of this act, shall not be incurred in an aggregate amount exceeding sixty million dollars ($60,000,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding one hundred twenty million dollars ($120,000,000) in the first two fiscal years, or in an aggregate amount exceeding one hundred eighty million dollars ($180,000,000) in the first three fiscal years, or in an aggregate amount exceeding two hundred forty million dollars ($240,000,000) in the first four fiscal years, or in an aggregate amount exceeding three hundred million dollars ($300,000,000) in the first five fiscal years.

The proceeds of said bonds may be used with any federal funds which might be made available for the purposes set forth above and the North Carolina Board of Transportation or any other governmental unit is authorized to apply for and accept any federal funds and agree to the terms and conditions under which such federal funds shall be made available. The provisions of this act shall not be applicable to any such federal funds.

Sec. 4. The proceeds of said bonds shall be expended by the North Carolina Board of Transportation for the construction, improving or relocating of highway facilities as follows:

(a) one hundred seventy-five million dollars ($175,000,000) on the primary system of State highways as defined herein which amount is to be allocated for expenditure by the Board of Transportation;

(b) seventy-five million dollars ($75,000,000) on the secondary system of State highways as defined herein to be allocated by the Board of Transportation in accordance with the formula presently set out in G.S. 136-44.5;

(c) fifty million dollars ($50,000,000) on the urban system of State highways as defined herein to be allocated by the Board of Transportation. Rights-of-way for such streets and highways shall be acquired under and pursuant to the provisions of G.S. 136-66.3.

As used herein, the three State highway systems are defined as follows: The State primary system shall include all portions of the State highway system located outside municipal corporate limits which are designated by N. C., U. S. or Interstate numbers. The State secondary system shall include all of the State highway system located outside municipal corporate limits that is not a part of the State primary system. The State urban system shall include all portions of the State highway system located within municipal corporate limits.

Sec. 5. The bonds herein authorized shall bear such date or dates, shall be serial bonds and shall mature at such times and in such amounts, not exceeding 30 years from their date or dates, shall bear interest at such rate or rates, and may be made redeemable before maturity, at the option of the State,

at such price or prices and under such terms and conditions, as may be fixed by the State Treasurer with the approval of the Council of State.

Sec. 6. The bonds issued pursuant to this act shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer or shall bear his facsimile signature; shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of the State Treasurer. In the event that the bonds shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant as designated by the State Treasurer. Should any officer whose signature or facsimile appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

Sec. 7. The bonds and any notes issued pursuant to this act, and any interest coupons appertaining thereto, shall be made payable at one or more banks or trust companies within or without the State as shall be designated by the State Treasurer or at the office of the State Treasurer in Raleigh, as the State Treasurer shall determine.

Sec. 8. Subject to determination by the Council of State of the manner in which the bonds shall be offered for sale, whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest. All expense necessarily incurred in the preparation, sale and issuance of the bonds and any bond anticipation notes herein authorized shall be paid by the State Treasurer from the proceeds of the sale of such bonds or bond anticipation notes.

Sec. 9. The proceeds of sale of the bonds and of the bond anticipation notes herein authorized, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes, shall be placed by the State Treasurer in a special fund known as the "State Highway Bond Act of 1977 Bond Fund", and shall be disbursed as herein provided.

Sec. 10. By and with consent of the Council of State, who shall determine the rate or rates or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(a) for anticipating the sale of any of said bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of such bonds;

(b) for the payment of interest upon or any installment of principal of any said bonds then outstanding, if there shall not be sufficient funds in the State

Treasury with which to pay such interest or installment of principal as they respectively fall due; or

(c) for the renewal of any loan evidenced by notes herein authorized.

Sec. 11. Funds derived from the sale of bonds herein authorized shall be used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of such bonds and any renewals of such notes, and funds provided by the General Assembly for the payment of interest on or principal of bonds herein authorized shall be used in paying the interest on or principal of any notes and any renewals thereof the proceeds of which shall have been used in paying interest on or principal of such bonds. Interest payable upon said notes may be evidenced by interest coupons in the State Treasurer's discretion.

Sec. 12. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 13. The coupons appertaining to the bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatsoever due the State.

Sec. 14. All of the bonds, notes and coupons authorized by this act shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on said bonds and notes shall not be subject to taxation as to income, nor shall said bonds or notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

Sec. 15. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissions, to invest any moneys in their hands in said bonds and notes.

Sec. 16. The question of the issuance of the three hundred million dollars ($300,000,000) State of North Carolina Highway Bonds authorized by this act shall be submitted to the qualified voters of the State of North Carolina at an election to be held on a date in 1977 to be fixed by the Governor by proclamation issued by him, but in any event not later than November 8, 1977; provided, that the election herein provided for may be held on the same day as any other State, county, municipal or district election, and any other State, county, municipal or district election may be validly held on the same day as the bond election provided for in this act. Notice of the bond election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in this election. The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding said election and registration therefor, the same to be paid out of the State Highway Fund, unless the payment of such expenses is otherwise expressly provided for. The State Board of Elections shall cause to be printed and distributed the ballots which are to be used in said election, which ballots shall be substantially in the following form:

"OFFICIAL BALLOT.

"THREE HUNDRED MILLION DOLLARS STATE OF NORTH CAROLINA HIGHWAY BONDS.

"Instructions for Marking Ballot.

"(a) To vote in favor of the issuance of the bonds, make a cross (x) mark in the square opposite the words 'For the Issuance of Three Hundred Million Dollars ($300,000,000) State of North Carolina Highway Bonds'.

(b) To vote against the issuance of bonds, make a cross (x) mark in the square opposite the words 'Against the Issuance of Three Hundred Million Dollars ($300,000,000) State of North Carolina Highway Bonds'.

(c) If you tear or deface or wrongly mark this ballot, return it and get another.

☐ FOR the Issuance of Three Hundred Million Dollars ($300,000,000) State of North Carolina Highway Bonds.

☐ AGAINST the Issuance of Three Hundred Million Dollars ($300,000,000) State of North Carolina Highway Bonds.

(Facsimile Signature)
Chairman, State Board of Elections"

Those voting in said election who are in favor of the issuance of said bonds shall vote by making an "x" in the square opposite the words "For the Issuance of Three Hundred Million Dollars ($300,000,000) State of North Carolina Highway Bonds".

Those opposed to the issuance of said bonds shall vote by making an "x" in the square opposite the words "Against the Issuance of Three Hundred Million Dollars ($300,000,000) State of North Carolina Highway Bonds".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting in said election shall vote in favor of the issuance of the bonds, the bonds shall be issued as hereinbefore provided. In the event a majority of those voting in said election shall vote against the issuance of the bonds, the bonds shall not be issued.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 17. The proceeds of the additional one cent (1¢) per gallon tax on motor fuels provided for in Chapter 1250, Public Laws of 1949 (herein called the "1949 Tax"), and continued in force and applied to the payment of the principal or redemption premium of and the interest on the State of North Carolina Highway Bonds authorized and issued under the provisions of Chapter 46 of the 1965 Session Laws, as amended by Chapter 913 of said Session Laws (herein called the "1965 Bonds") held in the State Highway Fund on June 30 of any fiscal year in excess of the interest becoming due on the next interest payment date and the principal becoming due on the next maturity date on any outstanding 1965 Bonds shall be applied exclusively to the payment of the principal of and the interest on the State of North Carolina Highway Bonds authorized and issued under the provisions of this act (herein called the "1977 Bonds"); provided, however, that if on June 30 of any fiscal year the unexpended proceeds of the 1949 Tax then held in the State Highway Fund shall exceed the interest becoming due on the next interest payment date and the principal becoming due on the next maturity date on any outstanding 1965 Bonds and any outstanding 1977 Bonds, such excess may be used for the redemption of the 1965 Bonds or the 1977 Bonds or, while any of the 1965

Bonds shall be outstanding or sufficient funds for the payment thereof are not provided for or set aside, for purposes for which appropriations were made from the State Highway Fund as of the effective date of said Chapter 46 and, after the retirement of the 1965 Bonds or the providing for or setting aside of sufficient funds for their payment, for any purposes for which moneys in the State Highway Fund are then by law available.

Subject to the existing pledge of the revenues accruing to the State Highway Fund for paying the principal of and the interest on the 1965 Bonds and subject to the provisions of this section, there are hereby appropriated and irrevocably pledged to the payment of the principal of and the interest on the 1977 Bonds so much of the revenues accruing to the State Highway Fund as shall be required for such purpose. Until all of the bonds issued and outstanding under the authority of this act and the interest and any redemption premium thereon shall be fully paid or sufficient funds for such purpose shall have been provided and set aside, the tax on motor fuels, including the 1949 Tax, and automobile license fees to the extent hereby required shall not be repealed, diminished or applied to any purpose other than State Highway Fund purposes, and moneys of the State Highway Fund shall not be diverted to any purpose other than those purposes for which appropriations are now made from said fund.

Sec. 18. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 19. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1195 CHAPTER 644

AN ACT TO AMEND G.S. 143-132 TO PERMIT AWARD OF PUBLIC CONTRACTS FOR CONSTRUCTION AND REPAIR UPON RECEIPT OF FEWER THAN THREE BIDS WHEN DOING SO BEST SERVES THE PUBLIC INTEREST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-132, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by adding at the end thereof a new paragraph to read as follows:

"Provided, however, that any contract for construction or repairs requiring the estimated expenditure of public money in an amount in excess of ten thousand dollars ($10,000) but not in excess of thirty thousand dollars ($30,000) may be awarded by any board or governing body of the State or any subdivision thereof upon receipt of at least two such competitive bids without readvertising if such board or governing body finds as a fact that it would not be in the public interest to readvertise as above required and makes appropriate written entry in the minutes or records of such board or governing body."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1202 CHAPTER 645

AN ACT TO AMEND CHAPTER 25 OF THE GENERAL STATUTES SPECIFICALLY GIVING THE DEPARTMENT OF CULTURAL RESOURCES RESPONSIBILITY FOR PLANNING AND COORDINATING COOPERATIVE LIBRARY DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 125-2 is hereby amended by adding a new subdivision at the end thereof designated as (10), to read as follows:

"(10) To plan and coordinate cooperative programs between the various types of libraries within the State of North Carolina, and to coordinate State development with regional and national cooperative library programs."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1246 CHAPTER 646

AN ACT TO AMEND CHAPTER 115, ARTICLE 2A OF THE GENERAL STATUTES PERTAINING TO THE COUNCIL ON EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-11.7 is amended by rewriting the second sentence of the first paragraph to read as follows: "Of those members of the council appointed by the State board, one member shall be selected from each congressional district within the State, and the members so selected shall be composed of at least one person representing each of the following: handicapped individuals, parents or guardians of children with special needs, teachers of children with special needs, and State and local education officials and administrators of programs for children with special needs."

Sec. 2. G.S. 115-11.7 is amended by rewriting the last sentence of the first paragraph to read as follows: "The council shall designate a chairperson from among its members. The designation of the chairperson is subject to the approval of the State Board of Education. The board shall promulgate rules or regulations to carry out this section."

Sec. 3. G.S. 115-11.7 is amended by adding the following paragraph between the first and second paragraphs to read as follows: "Ex officio members of the council shall be the following: (1) the Secretary of the Department of Human Resources or the secretary's designee, (2) the Secretary of the Department of Correction or the secretary's designee, (3) a representative from The University of North Carolina Planning Consortium for Children with Special Needs, and (4) the Superintendent of the Department of Public Instruction or the superintendent's designee."

Sec. 4. G.S. 115-11.7 is hereby amended by adding a new subsection (4) to read as follows: "No person shall serve more than two consecutive four-year terms."

Sec. 5. G.S. 115-11.8 is hereby rewritten to read as follows:

"The duties of the council shall be to (1) advise the State Board of unmet needs within the State in the education of children with special needs, as defined in this Chapter, (2) comment publicly on rules and regulations proposed

for issuance by the board regarding special education and related services and the procedures for issuing State and federal funds for special education and related services, (3) assist the board in developing and reporting such data and evaluations as may assist the Commissioner of Education in the performance of his duties under Part B, Education of the Handicapped Act, as amended by Public Law 94-142 and (4) comment publicly on State special education plans developed pursuant to Public Law 94-142 and State law."

Sec. 6. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1317 CHAPTER 647

AN ACT TO AMEND G.S. 160A-497 RELATING TO MUNICIPAL PROGRAMS FOR THE ELDERLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-497, as enacted by Chapter 187, Session Laws of 1977, is hereby amended by deleting in lines 6 and 7 the words and punctuation "association, or corporation" and inserting in lieu thereof the words and punctuation "or with any public or private association, corporation or organization".

Sec. 2. G.S. 160A-497, as enacted by Chapter 187, Session Laws of 1977, is further amended by deleting in lines 8 and 9, the words and punctuation "association, or corporation" and inserting in lieu thereof the words and punctuation "or to any such public or private association, corporation or organization".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1356 CHAPTER 648

AN ACT TO AMEND THE PROVISIONS FOR FINAL DISPOSITION OR TRANSPORTATION OF DECEASED MIGRANT FARM WORKERS.

The General Assembly of North Carolina enacts:

Section 1. Article 14C of Chapter 90 of the General Statutes is rewritten to read as follows:

"ARTICLE 14C.

"Final Disposition or Transportation of Deceased Migrant Farm Workers and Their Dependents.

"§ 90-216.12. *Final disposition or transportation of deceased migrant farm workers and their dependents.*—(a) Notwithstanding any other provisions of the law, any person having knowledge of the death of a migrant agricultural worker or a worker's dependent shall without delay report the fact of such death to the department of social services in the county in which the body is located together with any information he may possess respecting the deceased including his identity, place of employment, permanent residence, and the name, address and telephone number of any relative and interested person. The county department of social services shall within a reasonable time of receiving such report transmit to the Department of Human Resources notice of the

death and any information pertaining thereto. The Department of Human Resources shall, upon notification, make every reasonable effort to inform the nearest relative and any interested person of said death.

(b) In the event that the identity of the person cannot be determined within a reasonable period of time, or in the event that the body is unclaimed 10 days after death, the body shall be offered to the Commission of Anatomy and, upon its request, shall be delivered to the commission as per the provisions of G.S. 90-216.6(a). In the event that the Commission of Anatomy does not request an unclaimed body offered it or the estate, and in the event that the relatives or other interested persons claiming the body are unable to provide for the final disposition of said migrant agricultural worker or his dependent, the Department of Human Resources is authorized, empowered, and directed to arrange for the final disposition of the deceased.

(c) In the event that the estate, relatives or interested persons are able to provide for final disposition but are unable to effect the transportation of the body of the deceased to his legal residence or the legal residence of the relatives or interested persons, the Department of Human Resources is authorized, empowered, and directed to allocate a sum of not more than two hundred dollars ($200.00) to defray said transportation expenses.

Payments made from the funds appropriated under this subsection shall be made in accordance with rules and regulations promulgated by the Department of Human Resources.

For purposes of this Article, a migrant agricultural worker is any worker who moves in response to the demand for seasonal agricultural labor.

For purposes of this Article, dependent means child, grandchild, spouse or parent of a migrant agricultural worker who moves with said migrant agricultural worker in response to the demand for seasonal agricultural labor."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1371 CHAPTER 649

AN ACT TO AMEND THE NORTH CAROLINA GENERAL STATUTES RELATING TO BODY EXECUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-311, as the same appears in the 1969 Replacement Volume 1A of the General Statutes, is hereby amended by adding the following sentences at the end thereof:

"Such findings of fact shall include a finding that the defendant either (a) is about to flee the jurisdiction to avoid paying his creditors, (b) has concealed or diverted assets in fraud of his creditors, or (c) will do so unless immediately detained. If defendant appears at the hearing on the debt and the judge has reason to believe that the defendant is indigent, he shall inform the defendant that if he is an indigent person he is entitled to services of counsel under G.S. 7A-451, that he may petition for preliminary release on the basis of his indigency, that if he does so he will have an opportunity within 72 hours to suggest to a judge his indigency for purposes of appointment of counsel and provisional release, and that the judge will thereupon immediately appoint counsel for him if it is adjudged that he is unable to pay a lawyer. If defendant

appears at the hearing on the debt and the judge provisionally concludes he is indigent, counsel should be appointed immediately."

Sec. 2. G.S. 1-313, as the same appears in the 1975 Cumulative Supplement to Volume 1A of the General Statutes, is hereby amended by rewriting subdivision (3) to read as follows:

"(3) *Against the person.*—If it is against the person of the judgment debtor, it shall require the officer to arrest him, and commit him to the jail of the county until he pays the judgment or is released or discharged according to law. The execution shall include a statement that if the defendant is an indigent person he is entitled to services of counsel, that he may petition for preliminary release on the basis of his indigency, that if he does so he will have an opportunity within 72 hours to suggest to a judge his indigency for purposes of appointment of counsel and provisional release, and that the judge will thereupon immediately appoint counsel for him if it is adjudged that he is unable to pay a lawyer."

Sec. 3. G.S. 1-413, as the same appears in the 1969 Replacement Volume 1A of the General Statutes, is hereby amended by adding a new sentence at the end thereof to read as follows:

"The order shall include a statement that if the person arrested is an indigent person he is entitled to services of counsel under G.S. 7A-451, that he may petition for preliminary release on the basis of his indigency, that if he does so he will have an opportunity within 72 hours to suggest to a judge his indigency for purposes of appointment of counsel and preliminary release, and that the judge will thereupon immediately appoint counsel for him if it is adjudged that he is unable to pay a lawyer."

Sec. 4. G.S. 7A-451(a), as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by rewriting subdivision (7) to read as follows:

"(7) In any case of execution against the person under Chapter 1, Article 28 of the General Statutes, and in any civil arrest and bail proceeding under Chapter 1, Article 34, of the General Statutes;".

Sec. 5. Chapter 23, Article 4, of the General Statutes is hereby amended by adding thereto a new Section 23-30.1 to read as follows:

"§ 23-30.1. Every person who has filed a petition under the provisions of G.S. 23-30 shall be brought before a judge within 72 hours after filing the petition and shall be provisionally released from imprisonment unless a hearing shall be held and the creditor shall establish that the prisoner has fraudulently concealed assets. If, at the time he is brought before a judge, the prisoner makes a showing of indigency, the judge shall appoint counsel for him. A provisional release under this section shall not constitute a discharge of the debtor, and the creditor may oppose the discharge by suggesting fraud even if he has unsuccessfully attempted to oppose the provisional release on the basis of fraudulent concealment. The debtor may be provisionally released even though actual service upon the creditor has not been accomplished if 72 hours has passed since the debtor delivered the notice to the sheriff for service upon the creditor."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1410 CHAPTER 650

AN ACT TO MAKE A TECHNICAL AMENDMENT TO G.S. 25A-36.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-36, as it appears in the 1975 Supplement to the General Statutes, is amended in line 10 of subsection (b) thereof by deleting the words "not yet due" and by inserting in lieu thereof the word "unpaid".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 727 CHAPTER 651

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT WITH RESPECT TO BENEFITS FOR PERMANENT AND TOTAL DISABILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-29 is hereby amended by creating a new section to be designated as G.S. 97-29.1 which shall be inserted immediately following G.S. 97-29 which shall read as follows:

"§ 97-29.1. In all cases of total and permanent disability occurring prior to July 1, 1973, weekly compensation payments shall be increased effective July 1, 1977, to an amount computed by multiplying the number of calendar years prior to July 1, 1973, that the case arose by five percent (5%). Payments made by the employer or its insurance carrier by reason of such increase in weekly benefits may be deducted by such employer or insurance carrier from the tax levied on such employer or carrier pursuant to G.S. 105-228.5 or G.S. 97-100. Every employer or insurance carrier claiming such deduction or credit shall verify such claim to the Secretary of Revenue or the Industrial Commission by affidavit or by such other method as may be prescribed by the Secretary of Revenue or the Industrial Commission."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 826 CHAPTER 652

AN ACT TO AMEND THE BIENNIAL LICENSURE FEE OF THE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS AND TO AUTHORIZE EXAMINATION AND TRAINING PROGRAM FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-280 is hereby rewritten to read as follows:

"§ 90-280. *Fees; display of license.*—(a) Each applicant for an examination administered by the board and each applicant for a training program sponsored or supervised by the board shall pay a fee set by the board not to exceed the cost of administering the examination or of sponsoring or supervising the training program.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the board not to exceed one hundred fifty dollars ($150.00). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the board not to exceed one hundred fifty dollars ($150.00).

(c) Each person licensed as a nursing home administrator shall display his license certificate in a conspicuous place in his place of employment."

Sec. 2. This act shall become effective August 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 874 CHAPTER 653

AN ACT TO REDEFINE "TIPPED EMPLOYEE" AND TO REQUIRE THAT CERTAIN CONDITIONS MUST BE MET IN ORDER FOR THE EMPLOYER TO QUALIFY FOR "TIP CREDIT".

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-86(5), as the same appears in 1975 Replacement Volume 2C, is rewritten in its entirety to read as follows:

"(5) 'Tipped employee' shall mean any employee who customarily receives more than twenty dollars ($20.00) a month in tips.

In determining the wage of a tipped employee, the amount paid to such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of fifty percent (50%) of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the commissioner that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid to such employee by his employer shall be deemed to have been increased by such lesser amount.

An employer is not entitled to increase wages on account of tips as above provided unless the employer meets the following conditions:

The employee has been informed by the employer of the provisions of this subsection, the employee is allowed to retain all of the tips he or she has received except that tip pooling is permissible among employees who customarily and regularly receive tips, the employer maintains for a period of three years accurate and complete records of hours worked, wages paid and tips received by each employee, such tips to be certified by the employee to the employer for each pay period, and the employer does not require any employee to remit tips to the employer for the use of the employer in discharging the minimum wage requirements of this Article."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 921 **CHAPTER 654**

AN ACT TO AMEND G.S. 108-46 TO REQUIRE THE COUNTY FROM WHICH AN AFDC RECIPIENT MOVES TO PAY THE AMOUNT OF ASSISTANCE TO WHICH THE RECIPIENT IS ENTITLED FOR A PERIOD OF ONE MONTH FOLLOWING THE MOVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-46, as the same appears in Volume 3A of the General Statutes, is hereby amended by deleting from line 7 thereof the words "three months" and substituting therefor the words "one month".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. R. 922 **CHAPTER 655**

AN ACT TO AMEND G.S. 108-47 RELATING TO PUBLIC ASSISTANCE CHECKS MADE PAYABLE TO DECEDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-47, as the same appears in Volume 3A of the General Statutes, is hereby amended by deleting from lines 10 and 11 the words "G.S. 28-68 through G.S. 28-68.3" and substituting therefor the citation "G.S. 28A-25-6".

Sec. 2. G.S. 108-47, as the same appears in Volume 3A of the General Statutes, is hereby amended by adding the following sentence at the end thereof:

"In the event of the death of a recipient of a cash payment service, any check or checks payable to such recipient but not endorsed prior to such recipient's death shall be returned to the issuing agency, made void, and reissued to the provider of the service."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1063 **CHAPTER 656**

AN ACT TO AMEND G.S. 130-9(e) TO PROVIDE THAT STATE INSPECTIONS OF NURSING HOMES SHALL BE GIVEN WITHOUT NOTICE AND THAT THE GIVING OF PRIOR NOTICE OF INSPECTION SHALL BE A MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-9(e)(1), as the same appears in 1974 Replacement Volume 3B of the General Statutes, is amended by adding a new sentence at the end thereof to read as follows:

"Provided that the standards, rules and regulations adopted pursuant to this subsection shall provide that neither the Commission for Health Services nor the Department of Human Resources may give notice to the operator of a nursing home prior to inspection of the nursing home. The inspection of a

facility for initial licensure shall be exempt from the requirement for no prior notice. All subsequent inspections must comply with the provisions of this act."

Sec. 2. G.S. 130-9(e)(3), as the same appears in 1974 Replacement Volume 3B of the General Statutes, is amended by adding a new sentence at the end thereof to read as follows:

"Any person acting under the authority of the Commission for Health Services or the Department of Human Resources who gives advance notice to an operator of a nursing home of the date or time that the nursing home is to be inspected shall be guilty of a misdemeanor, and upon conviction thereof, shall be liable for a fine of not more that five hundred dollars ($500.00) or imprisonment for a period not to exceed 30 days, or both."

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1104 CHAPTER 657

AN ACT TO MAKE TECHNICAL REVISIONS IN CHAPTER 105 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Subchapter I, Chapter 105 of the General Statutes, is amended by:

(a) deleting "105-41.1," and "105-43," from the first line of G.S. 105-33(d), as the same appears in 1972 Replacement Volume 2D of the General Statutes;

(b) deleting the word "net" from the fifth line of the fourth paragraph of G.S. 105-37.1(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes;

(c) rewriting G.S. 105-61(e) in its entirety, to read as follows:

"(e) A single private residence or cottage designed for single family occupancy, located in a resort area, and occupied during a part of the season by the owner or owners thereof but rented the remainder of the season to others for single family occupancy, shall be exempt from the tax imposed in this section. All such private residences or cottages, in excess of one, so located, owned, occupied and rented shall be subject to the tax imposed in this section."

(d) deleting the first three lines from G.S. 105-64(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, and inserting in lieu thereof the following:

"(a) Every person, firm or corporation engaged in the business of operating billiard or pool tables, whether operated by slot or otherwise, shall";

(e) deleting the first three lines from G.S. 105-64.1(a), as the same appears in 1972 Replacement Volume 2D of the General Satutes, and inserting in lieu thereof the following:

"(a) Every person, firm or corporation engaged in the business of operating a bowling alley, or alleys of like kind, shall apply for and procure from";

(f) deleting "78-1 to 78-24" from the third line of G.S. 105-67(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, and inserting in lieu thereof "Chapter 78A of the General Statutes";

(g) inserting the words "tape players and tape cartridges designed for use in tape players" immediately after the comma following the word "instruments" in the eighth line of G.S. 105-82(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes;

(h) rewriting G.S. 105-37(c) in its entirety, to read as follows:

"(c) For any moving picture show operated within the city limits or within one mile of the corporate limits of any city having a population of 25,000 or over, and known as neighborhood or suburban theaters, the tax shall be one third of the above tax, based upon the population of such city.";

(i) inserting the word "organizations" between the words "civic" and "and" on the first line of the fourth paragraph of G.S. 105-37.1.

Sec. 2. Article 2B of Subchapter I, Chapter 105 of the General Statutes, is amended by:

(a) deleting the reference to "G.S. 105-113.5" from G.S. 105-113.44(7), and inserting in lieu thereof "G.S. 105-113.45"; and

(b) deleting the first five lines of G.S. 105-113.56A, as the same appears in 1972 Replacement Volume 2D of the General Statutes, and inserting in lieu thereof the following:

"Instead of paying the tax levied in this Article in the manner otherwise provided, any distributor or wholesale dealer may pay the tax in the following manner, with respect to bottled soft drinks:".

Sec. 3. G.S. 105-113.86(p), as the same appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting from line 23 thereof the words "latest federal decennial census" and inserting in lieu thereof the words "most recent annual estimate of population as certified to the Secretary of Revenue by the Secretary of Administration".

Sec. 4. G.S. 105-130.3 is amended by rewriting the first paragraph thereof to read as follows:

"Every corporation doing business in this State shall pay annually an income tax equivalent to six percent (6%) of its net income or the portion thereof allocated and apportioned to this State. The net income or net loss of such corporation shall be the same as 'taxable income' as defined in the Internal Revenue Code in effect on January 1, 1977, subject to the adjustments provided in G.S. 105-130.5."

Sec. 5. Article 4 of Subchapter I, Chapter 105 of the General Statutes is amended by:

(a) rewriting G.S. 105-135(12) in its entirety, to read as follows:

"(12) The word 'person' means an individual, a fiduciary, a partnership, or a corporation and includes an officer or employee of a corporation, or a member or employee of a partnership or of an individual proprietorship who as such officer, employee, or member is under a duty to perform an act in meeting the requirements of this division."

(b) adding at the end of G.S. 105-141(a) a new subdivision (21), to read as follows:

"(21) Reimbursement for moving expenses from one residence to another which is attributable to employment or self-employment must be included in gross income as a compensation for services when the income from the new principal place of employment is reportable for taxation to North Carolina under the provisions of this division; provided, however, that when only a portion of the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of this division, the moving expense reimbursement shall be apportioned for taxation by this State under rules and regulations prescribed by the Secretary of Revenue."

(c) changing the period at the end of G.S. 105-141(b)(11) to a comma, and adding thereafter the following:

"or plan qualifying under the provisions of Section 401(a) of the Internal Revenue Code of 1954 as amended."

(d) changing the period at the end of G.S. 105-141.1(d)(3) to a semicolon, and adding thereafter the following:

"provided, however, when a lump sum payment from an annuity endowment or life insurance contract is received by an individual who has moved into North Carolina, the relief provisions of this subdivision shall not be available to such individual if he was not a resident of North Carolina during the entire two years immediately preceding the year in which the lump sum payment is received."

(e) deleting from the seventh line of G.S. 105-144.2(h), as the same appears in the 1975 Cumulative Supplement to Replacement Volume 2D of the General Statutes, the words and figures "and during an induction period (as defined in G.S. 105-141(b)(12))".

(f) rewriting all of G.S. 105-147(5) to read as follows:

"(5) All interest paid during the income year on the indebtedness of the taxpayer except interest paid or accrued in connection with the ownership of property, the income from which is not taxable under this division."

(g) rewriting all of G.S. 105-147(8) to read as follows:

"(8) In the case of an individual moving from one location to another, moving expenses paid or incurred during the taxable year in connection with the commencement of work at the new location to the extent allowed or allowable for federal income tax purposes under the provisions of Section 217 of the Internal Revenue Code of 1954 as amended; except, that no individual shall be allowed the deduction for such moving expenses unless the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of this division for the period of time required under Section 217 of the Internal Revenue Code of 1954 as amended for qualifying for the moving expense deduction for federal income tax purposes and only to the extent allowed or allowable under that section for federal income tax purposes; provided, that if the reimbursement for the moving expenses is reportable for taxation to North Carolina under the provisions of G.S. 105-141(a)(21), the deduction for moving expenses shall be allowed to the extent allowed for federal income tax purposes; and provided further, that when only a portion of the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of this division, the moving expense deduction shall be apportioned under rules and regulations prescribed by the Secretary of Revenue. Where joint federal returns are filed by husband and wife for federal income tax purposes, the deduction otherwise allowable under this subsection shall be limited to such amount as would have been allowable if separate federal income tax returns had been filed. The deduction allowed by this subdivision for moving expenses shall be allowed as a business expense deductible from gross income in arriving at adjusted gross income."

(h) inserting immediately after the reference to "G.S. 105-147" in the fourth line of G.S. 105-161(d)(3), as the same appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, the following parenthetical phrase:

"(or as an offset against the sales price of property in determining gain or loss)".

(i) rewriting all of G.S. 105-163.1(13), to read as follows:

"(13) The word 'person' means an individual, a fiduciary, a partnership, or a corporation and includes an officer or employee of a corporation or a member or employee of a partnership or of an individual proprietorship who as such officer, employee, or member is under a duty to perform an act in meeting the requirements of this division."

(j) substituting the words and figures "eighty percent (80%)" for the words and figures "seventy percent (70%)", in the first line of G.S. 105-163.15(d)(1)c., as the same appears in 1972 Replacement Volume 2D of the General Statutes.

Sec. 6. Article 9 of Subchapter I, Chapter 105 of the General Statutes, is amended by:

(a) redesignating present subsection (j) of G.S. 105-241.1 to be subsection (k) thereof, and adding a new subsection (j), between subsection (i) and redesignated subsection (k) of G.S. 105-241.1, to read as follows:

"(j) 'Tax' and 'additional tax', for the purposes of this Subchapter and for the purposes of Subchapters V and VIII of this Chapter, include penalties and interest, as well as the principal amount of such tax or additional tax."

(b) inserting a new sentence, immediately before the last sentence in G.S. 105-259, to read as follows:

"Notwithstanding contrary provisions of this section, the secretary may also furnish to the Employment Security Commission account and identification numbers, and names and addresses, of taxpayers when said commission requires such information for the purpose of administering Chapter 96 of the General Statutes."

Sec. 7. G.S. 105-438 is amended by rewriting the same in its entirety, to read as follows:

"§ 105-438. *Record of transactions.*—Every distributor of motor fuels shall keep a record of all such fuels purchased, received, sold, delivered or used by him, which shall include the number of gallons so purchased, received, sold, delivered, or used, and the dates of such purchases and sales, and which shall at all times during the business hours of the day be subject to inspection by the Secretary of Revenue or his deputies, or such other officers as may be duly authorized by said Secretary."

Sec. 8. Section 1 of this act shall become effective on July 1, 1977; Sections 2, 3, 6 and 7 shall become effective upon ratification of this act; Sections 4 and 5(a), (b), (c), (d), (f), (g), (i) and (j) shall become effective with respect to taxable years beginning on and after January 1, 1977; Section 5(e) shall become effective with respect to taxable years beginning on and after January 1, 1973; and Section 5(h) shall become effective from and after October 4, 1976.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1148 CHAPTER 658

AN ACT TO AMEND G.S. 113-95, RELATING TO HUNTING AND FISHING LICENSE FEES, SO AS TO PROVIDE FOR A REDUCED FEE FOR TOTALLY DISABLED RESIDENTS OF THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-95, as the same appears in the 1975 Cumulative Supplement to Volume 3A of the General Statutes, is amended by adding after

the sixth paragraph thereof the following:

"Any resident of this State, irrespective of age, who is totally disabled (physically incapable of being gainfully employed) may apply to the license section of the Wildlife Resources Commission in Raleigh, on a form to be prepared and on request distributed by the commission, for a permanent, nontransferable combination hunting and fishing license. If the commission is satisfied that the applicant is totally disabled, it shall issue to such person a permanent nontransferable combination hunting and fishing license without payment of a fee."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1169 CHAPTER 659

AN ACT TO PROHIBIT A LANDLORD, OWNER, OR AGENT FROM REFUSING TO RENT OR SELL HIS PREMISES TO A VISUALLY HANDICAPPED PERSON BECAUSE HE HAS A GUIDE DOG.

The General Assembly of North Carolina enacts:

Section 1. G.S. 168-7 is amended by adding at the end thereof:

"No person, firm or corporation shall refuse to sell, rent, lease or otherwise disallow a visually handicapped person to use any premises for the reason that said visually handicapped person has or will obtain a guide dog for mobility purposes."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 1265 CHAPTER 660

AN ACT TO AMEND THE COMMUNITY DEVELOPMENT LAW TO AUTHORIZE CITIES AND COUNTIES TO ACQUIRE PROPERTY FOR THE PURPOSE OF REDEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding a new Section 160A-456.1 reading as follows:

"§ 160A-456.1. *Acquisition and disposition of property for redevelopment.*— In addition to the powers granted by G.S. 160A-456, any city is authorized, either as a part of a community development program or independently thereof, and without the necessity of compliance with the Urban Redevelopment Law, to exercise the following powers:

(1) to acquire, by voluntary purchase from the owner or owners, real property which is either:

a. blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

b. appropriate for rehabilitation or conservation activities;

c. appropriate for housing construction or the economic development of the community; or

d. appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open space, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(2) to clear, demolish, remove, or rehabilitate buildings and improvements on land so acquired; and

(3) to retain property so acquired for public purposes, or to dispose, through sale, lease, or otherwise, of any property so acquired to any person, firm, corporation, or governmental unit; provided, the disposition of such property shall be undertaken in accordance with the procedures of Article 12 of this Chapter, or the procedures of G.S. 160A-514, or any applicable local act or charter provision modifying such procedures."

Sec. 2. Chapter 153A of the General Statutes is amended by adding a new Section 153A-376.1 reading as follows:

"§ 153A-376.1. *Acquisition and disposition of property for redevelopment.*— In addition to the powers granted by G.S. 153A-376, any county is authorized, either as a part of a community development program or independently thereof, and without the necessity of compliance with the Urban Redevelopment Law, to exercise the following powers:

(1) to acquire, by voluntary purchase from the owner or owners, real property which is either:

a. blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

b. appropriate for rehabilitation or conservation activities;

c. appropriate for housing construction of the economic development of the community; or

d. appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open space, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(2) to clear, demolish, remove, or rehabilitate buildings and improvements on land so acquired; and

(3) to retain property so acquired for public purposes, or to dispose, through sale, lease, or otherwise, of any property so acquired to any person, firm, corporation, or governmental unit; provided, the disposition of such property shall be undertaken in accordance with the procedures of G.S. 153A-176, or the procedures of G.S. 160A-514, or any applicable local act modifying such procedures."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

S. B. 2 CHAPTER 661

AN ACT TO PROVIDE THAT THE PRIMARY ELECTION SHALL BE HELD IN MAY AND TO MAKE APPROPRIATE CHANGES IN THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-1(b), as it appears in the 1975 Cumulative Supplement to Volume 3D of the General Statutes, is amended by deleting the

words "on the third Tuesday in August" and inserting in lieu thereof the words "on Tuesday next after the first Monday in May".

Sec. 2. G.S. 163-106(c), as it appears in the 1975 Cumulative Supplement to Volume 3D of the General Statutes, is amended by rewriting the first paragraph to read:

"(c) Time for Filing Notice of Candidacy. Candidates seeking party primary nomination for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February preceding the primary:".

Sec. 3. G.S. 163-106(c) is further amended by rewriting the third paragraph to read:

"Candidates seeking party primary nomination for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February preceding the primary:".

Sec. 4. G.S. 163-181, as it appears in the 1975 Cumulative Supplement to Volume 3D of the General Statutes, is rewritten to read as follows:

"If an election contest is properly pending before a county or city board of elections or before the State Board of Elections on appeal or otherwise, after a primary or election, the chairman of the county or city board of elections shall not issue a certification of election or certify a nominee for the office in controversy until the contest has been finally decided by the appropriate board of elections or by the court in the event the decision of the State Board of Elections is on appeal."

Sec. 5. G.S. 163-188, as it appears in the 1975 Cumulative Supplement to Volume 3D of the General Statutes, is hereby amended by rewriting the last sentence of the first paragraph to read:

"The time and date of the primary canvass shall be fixed by the State Board of Elections."

Sec. 6. G.S. 163-22, as it appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by adding a new lettered paragraph to be designated (k) and to read as follows:

"(k) Notwithstanding the provisions contained in Article 20 or Article 21 of Chapter 163 the State Board of Elections shall be authorized, by resolution adopted prior to the printing of the primary ballots, to reduce the time by which absentee ballots are required to be printed and distributed for the primary election from 60 days to 45 days. This authority shall not be authorized for absentee ballots to be voted in the general election."

Sec. 7. G.S. 163-213.2 is hereby amended by rewriting to read as follows:

"§ 163-213.2. *Presidential preference primary, date of election.*—Beginning with the Tuesday after the first Monday in May, 1980, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party."

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

S. B. 78 **CHAPTER 662**

AN ACT TO AMEND G.S. 115-25 RELATIVE TO THE ELIGIBILITY TO SCHOOL EMPLOYEES AND DISTRICT COMMITTEE MEMBERS TO SERVE ON BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 115-25 as the same appears in Replacement Volume 3A of the General Statutes is hereby rewritten as follows:

"§ 115-25. *Eligibility for board membership; holding other offices.*—Any person possessing the qualifications for election to public office set forth in Article VI, Section 6 of the Constitution of North Carolina shall be eligible to serve as a member of a county or city board of education. Provided, however, that any person elected or appointed to a county or city board of education, and also employed by that board of education or appointed to a district committee by that board of education, shall resign his employment before taking office as a member of that board of education."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

S. B. 697 **CHAPTER 663**

AN ACT TO AMEND G.S. 55A-15 TO AUTHORIZE NONPROFIT HOSPITAL CORPORATIONS TO PURCHASE OFFICERS AND DIRECTORS LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-15(a) is amended by adding a new subsection at the end thereof to read as follows:

"(10) Notwithstanding any other provision of law, a nonprofit corporation or association which operates a public hospital owned by a county, city, hospital district or hospital authority is hereby authorized to purchase liability insurance to protect its officers and directors in any suits alleging actual or alleged negligent acts, errors, omissions or breach of duty in the management of the corporation or association."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

S. B. 847 **CHAPTER 664**

AN ACT TO PROVIDE THAT THE ACCEPTANCE OF MEDICAID CONSTITUTES AN ASSIGNMENT TO THE STATE OF RIGHT TO THIRD PARTY INSURANCE BENEFITS AND TO PRESCRIBE PROCEDURE FOR RECOVERY OF SAID BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. Part 5 of Article 2 of Chapter 108 of the General Statutes of North Carolina is hereby amended by adding a new section immediately following G.S. 108-61.2, to be numbered G.S. 108-61.3, and to read as follows:

"§ 108-61.3. *Acceptance of medical assistance constitutes assignment to the State of right to third party insurance benefits; recovery procedure.*—(a) By

accepting medical assistance, the recipient shall be deemed to have made an assignment to the State of the right to third party insurance benefits to which he may be entitled.

(b) The responsible State agency shall disseminate the contents of this bill to all involved parties; the county government agencies, all Medicaid eligibles, all providers, and all insurance companies doing business in North Carolina.

(c) Since the ratio of dollars collected to State agency staff employed exceeds 10 to one, the responsible State agency will establish a third party resources collection unit that is adequate to assure maximum collection of third party resources."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

S. B. 856 CHAPTER 665

AN ACT TO PROVIDE FOR THE APPOINTMENT OF MEMBERS TO THE CRAVEN COUNTY BOARD OF ALCOHOLIC CONTROL BY THE CRAVEN COUNTY BOARD OF COUNTY COMMISSIONERS AND THE APPOINTMENT OF MEMBERS TO THE WAYNE COUNTY BOARD OF ALCOHOLIC CONTROL BY THE WAYNE COUNTY BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provisions of law, all future appointments of members to the Craven County Board of Alcoholic Control shall be made by the Craven County Board of County Commissioners and all future appointments of members to the Wayne County Board of Alcoholic Control shall be made by the Wayne County Board of County Commissioners.

Sec. 2. All laws and clauses of laws inconsistent herewith are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.

H. B. 21 CHAPTER 666

AN ACT TO AMEND G.S. 105-277.1(a)(2) TO INCREASE ANNUAL INCOME ALLOWABLE UNDER THE HOMESTEAD TAX EXEMPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.1 is hereby rewritten as follows:

"§ 105-277.1. *Property classified for taxation at reduced valuation.*—(a) The following class of property is hereby designated a special class under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be assessed for taxation: The first seven thousand five hundred dollars ($7,500) in assessed value of property owned by a North Carolina resident and, if real property, occupied by the owner as his or her permanent residence and, if household personal property, used by the owner in connection with his or her permanent residence, provided that, as of January 1 of the year for which the benefit of this section is claimed:

(1) the owner is either (i) 65 years of age or older or (ii) totally and permanently disabled, and

(2) the owner's disposable income for the immediately preceding calendar year did not exceed nine thousand dollars ($9,000), and

(3) the owner makes application as herein provided.

For married applicants residing with their spouses, the disposable income of both spouses must be included, whether or not the property is in both names.

(b) Definitions. When used in this section, the following definitions shall apply:

(1) An 'owner' of property means a person who holds legal or equitable title to the property, either individually or as a tenant by the entirety, a joint tenant, a tenant in common, a life estate or an estate for the life of another. Property owned and occupied by husband and wife as tenants by the entirety shall be entitled to the full benefit of this classification notwithstanding that only one of them meets the age or disability requirements herein provided. If the residence is a mobile home and is jointly owned by husband and wife, it shall be treated as property held by the entirety. When property is owned by two or more persons other than husband and wife and one or more of such owners qualifies for this classification, each qualifying owner shall be entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event shall the total exclusion allowed to a qualifying residence (including the household personal property therein) exceed seven thousand five hundred dollars ($7,500).

(2) 'Disposable income' means adjusted gross income as defined for North Carolina income tax purposes in G.S. 105-141.3 plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.

(3) 'Household personal property' includes furniture, appliances, furnishings, cooking and eating utensils, lawn equipment and tools, clothing and other personal effects but not motor vehicles, boats or airplanes.

(4) 'Permanent residence' means legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex or a mobile home. Notwithstanding the occupancy requirements of this classification, an otherwise qualified applicant shall not lose the benefit of the exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the applicant's spouse of other dependent.

(5) A 'totally and permanently disabled person' means one who has a physical or mental impairment which substantially precludes him from obtaining gainful employment and such impairment appears reasonably certain to continue without substantial improvement throughout his lifetime.

(c) Application. Applications for the exclusion provided by this section are to be filed during the regular listing period but shall be accepted at any time during the calendar year for which they are to be effective. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each such owner shall apply separately for his or her proportionate share of the exclusion.

(1) Elderly applicants. Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on the abstract on which they list their property for taxation.

(2) Disabled applicants. Persons who are totally and permanently disabled may apply for this exclusion by (1) entering the appropriate information on the abstract in which they list their property for taxation and (2) furnishing acceptable proof of their disability. Such proof shall be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, he or she shall not be required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation."

Sec. 2. G.S. 105-309(f) is hereby rewritten as follows:

"(f) The following information shall appear on each abstract: PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

G.S. 105-277.1 excludes from property taxes the first seven thousand five hundred dollars ($7,500) in assessed value of certain property owned by North Carolina residents aged 65 or older or totally and permanently disabled whose disposable income does not exceed nine thousand dollars ($9,000). The exclusion covers real property occupied by the owner as his or her permanent residence and/or household personal property used by the owner in connection with his or her permanent residence. Disposable income includes all moneys received other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.

(1) Is the property listed on this abstract your permanent residence or household personal property used in connection with your permanent residence? ( )( )
Yes No

(2) What is your date of birth? _____

(3) Did your disposable income last year exceed $9,000? ( )( )
Yes No

If this application is based upon total and permanent disability, attach a certificate that certifies that you are totally and permanently disabled from a physician licensed as a medical doctor in North Carolina or a governmental agency authorized to make such determination."

Sec. 3. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 53

CHAPTER 667

AN ACT TO TRANSFER THE NORTH CAROLINA DRUG COMMISSION TO THE DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-377 and G.S. 143B-378, as the same appear in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, are hereby repealed.

Sec. 2. Article 3 of Chapter 143B of the General Statutes is hereby amended by adding a new Part 23 to read as follows:

"PART 23.

"North Carolina Drug Commission.

"§ 143B-210. *North Carolina Drug Commission; creation; powers and duties.*—There is hereby created the North Carolina Drug Commission of the Department of Human Resources, which is designated as the single State agency to coordinate all State efforts relating to drug abuse prevention, education, control, treatment, and rehabilitation, and which shall have the following functions and duties:

(1) to advise the department in the coordination of all State efforts related to drug abuse prevention, education, control, treatment, and rehabilitation to the end that the effort to control drug abuse shall be efficiently and effectively administered and duplicating and overlapping efforts eliminated;

(2) to review all requests by non-State agencies to federal agencies for funds to finance drug abuse prevention, education, control, treatment, or rehabilitation programs, with the requirement that such federal funds may be spent within the State of North Carolina only when approved by the North Carolina Drug Commission except in those instances in which requirements for approval by the drug commission violate federal law or regulation;

(3) to advise in the coordination of the State's efforts with the efforts of local and municipal governments within the State and with the efforts of other states and the federal government;

(4) to assist private agencies and community organizations by providing needed coordination and information;

(5) to assist in the planning and supervision of public informational programs related to drug abuse;

(6) to assist with the formulation and coordination of programs relating to the early diagnosis, treatment, and rehabilitation of drug abusers;

(7) to assist with the formulation and coordination of training and informational programs for State employees and others;

(8) to advise in the coordination of the State's efforts to obtain federal funds available for drug abuse programs;

(9) to establish standards and adopt rules and regulations:

a. for the licensing of drug treatment facilities as provided by G.S. 90-109;

b. relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances as provided by G.S. 90-100;

c. as may be required by the federal government but not inconsistent with the laws of this State for grants-in-aid for drug abuse prevention, education, control, treatment and rehabilitation purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid;

(10) to advise the Secretary of Human Resources upon any matter the secretary may refer to it.

"§ 143B-211. *North Carolina Drug Commission; review of programs; State Plan for Drug Abuse Prevention.*—All drug abuse prevention, education, treatment, rehabilitation and evaluation programs which are implemented after June 30, 1977, with appropriated monies from the North Carolina General Assembly or the United States Congress shall be implemented only after review by the North Carolina Drug Commission and approval by the Secretary of Human Resources. Before any agency or organization, public or private, shall receive approval for program implementation from the secretary, the commission must make a finding that such programs are consonant with the North Carolina State Plan for Drug Abuse Prevention.

"§ 143B-212. *North Carolina Drug Commission; members; selection; quorum; compensation.*—The North Carolina Drug Commission of the Department of Human Resources shall consist of the following 21 voting members: the Attorney General or his designee, the Executive Officer of the State Board of Pharmacy, the Secretary of Correction or his designee, the Superintendent of Public Instruction or his designee, the Chairman of the Board of Governors of the North Carolina University System or his designee and the following persons who shall serve for a term of two years commencing July 1 of each odd-numbered year: a member of the North Carolina Board of Medical Examiners appointed by the Board of Medical Examiners, a member of the North Carolina State Board of Dental Examiners appointed by the Board of Dental Examiners, a representative of the North Carolina Hospital Association appointed by said association's governing body, a member of the North Carolina House of Representatives appointed by the Speaker of the House of Representatives, a member of the North Carolina Senate appointed by the President Pro Tempore of the Senate, and 11 persons appointed by the Governor. The following persons shall serve as ex officio members of the commission without vote: the directors of the following divisions of the Department of Human Resources or their designees: youth services, mental health, health, and vocational rehabilitation.

The Governor shall select his appointees to include representation for (1) nongovernmental organizations and local public agencies concerned directly or indirectly with drug abuse, such as groups in frequent contact with drug abusers, local citizen groups, employee groups, labor and management, other provider, consumer, and consumer advocate groups, local elected officials, courts, local law enforcement agencies, and (2) the minority, poverty, and major population groups which are significantly affected by the problems of drug abuse and which are to be served under the comprehensive State plan for drug abuse. The commission shall be so constituted as to give representation to different geographical areas of the State.

Notwithstanding the provisions of G.S. 143B-13(a) relating to existing commission members, the Governor shall appoint the initial members of the Drug Commission in accordance with the foregoing membership requirements.

At the end of the respective terms of office of the initial members of the commission, the appointment of their successors, with the exception of those from State agencies, shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the commission from office in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973 with the exception that the provision of G.S. 143B-13(c) shall only apply to State employees and shall not apply to other members of the commission.

The Governor shall designate a member of the commission to serve as chairman at the pleasure of the Governor.

Legislative members of the commission shall be compensated in accordance with the provisions of G.S. 120-3.1. Public members of the commission shall be compensated in accordance with the provisions of G.S. 138-5. State officers or employees who are members of the commission shall be compensated in accordance with the provisions of G.S. 138-6.

A majority of the commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the commission shall be supplied by the Secretary of Human Resources."

Sec. 3. Article 5 of Chapter 90 is hereby amended as follows:

(1) G.S. 90-88 is amended as follows:

a. By rewriting the first two sentences of G.S. 90-88(a) to read as follows: "(a) The North Carolina Drug Commission may add, delete, or reschedule substances within Schedules I through VI of this Article on the petition of any interested party, or its own motion."

b. By substituting the word "Commission" for the word "Authority" on lines 7, 10, 14 and 21 of subsection (a); on line 1 of subsection (b); on line 1 of subsection (c); on lines 2, 6, 7, 9, 12 and 14 of subsection (d); on line 1 of subsection (e); on line 1 of subsection (g); and on line 4 of subsection (i).

c. By substituting the words "Department of Human Resources" for the words "Drug Authority" on line 2 of subsection (h) and on line 1 of subsection (i).

(2) G.S. 90-89, G.S. 90-90, G.S. 90-91, G.S. 90-92, G.S. 90-93 and G.S. 90-94 are amended by substituting the words "Drug Commission" for the words "Drug Authority" wherever these words appear.

(3) G.S. 90-96(c) is amended by substituting the words "Department of Human Resources" for the words "Drug Authority" on line 3.

(4) G.S. 90-99 is amended by substituting the words "Department of Human Resources" for the words "Drug Authority" on line 1.

(5) G.S. 90-100 is amended by substituting the word "Commission" for the word "Authority" on line 1.

(6) G.S. 90-101 is amended:

a. by rewriting lines 6 and 7 of subsection (a) as follows: "by the North Carolina Department of Human Resources in accordance with rules and regulations promulgated by the North Carolina Drug Commission";

b. by substituting the words "Department of Human Resources" for the words "Drug Authority" on line 1 of subsection (b) and on line 1 of subsection (f);

c. by substituting the word "Commission" for the word "Authority" on line 1 of subsection (d);

d. by rewriting line 3 of subsection (f) as follows: "accordance with rules and regulations promulgated by the North Carolina Drug Commission".

(7) G.S. 90-102 is amended by substituting the words "Department of Human Resources" for the words "Drug Authority" wherever these words appear.

(8) G.S. 90-103, G.S. 90-104, and G.S. 90-106 are amended by substituting the words "Drug Commission" for the words "Drug Authority" wherever these words appear.

(9) G.S. 90-107 is amended by substituting the words "Department of Human Resources" for the words "Drug Authority" on line 6.

(10) G.S. 90-109 is amended as follows:

a. by substituting the words "Department of Human Resources" for the words "Drug Authority" wherever these words appear;

b. by substituting the word "Secretary" for the word "Director" on line 3 of subsection (b);

c. by deleting the period and adding at the end of subsection (a) the following: "in accordance with rules and regulations adopted by the North Carolina Drug Commission";

d. by adding at the end of subsection (c) the following: "a decision of the North Carolina Department of Human Resources to deny or revoke a drug treatment facility license may be appealed to the North Carolina Drug Commission in accordance with rules and regulations adopted by the Commission".

(11) G.S. 90-109.1 is amended by substituting the words "Department of Human Resources" for the words "Drug Authority" and by substituting the word "Secretary" for the word "Director" wherever these words appear.

(12) G.S. 90-111 is amended by substituting the words "Department of Human Resources" for the words "Drug Authority" wherever these words appear.

(13) G.S. 90-113.2 is amended by substituting the word "Commission" for the word "Authority" on lines 2 and 6.

(14) G.S. 90-113.3 is amended as follows:

a. by substituting the words "Department of Human Resources" for the words "Drug Authority" in line 1 of subsection (c);

b. by striking the words and punctuation "with the North Carolina Department of Human Resources" from lines 16 and 17 of subsection (c);

c. by substituting the words "Department of Human Resources" for the words "Drug Authority" wherever these words appear in subsections (d), (e) and (f).

Sec. 4. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 5. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 342

CHAPTER 668

AN ACT TO AMEND CHAPTER 18A OF THE GENERAL STATUTES CONCERNING THE ISSUANCE OF SPECIAL OCCASION PERMITS AND THE FEES FOR SUCH PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-31 is amended by adding the following new sentence at the end of subdivision (a)(3):

"A permit for the possession of alcoholic beverages at a special occasion may be limited to a single 48-hour period by the State ABC Board."

Sec. 2. G.S. 18A-31 is further amended in subsection (b) by renumbering present subdivision (6) as new subdivision (7) and by adding the following new subdivision (6):

"(6) Twenty-five dollars ($25.00) for a permit for the possession of alcoholic beverages at a special occasion if the permit is not valid for more than 48 hours;".

Sec. 3. G.S. 18A-39 is amended in subsection (a) by adding the following at the end of subdivision (3):

"However, if the permit is for the possession of alcoholic beverages at a special occasion and is valid for no more than 48 hours, in lieu of a statement that the applicant is a bona fide lessee the Board may require a written statement from the owner or person in control of the premises authorizing the applicant's use of the premises for the special occasion;".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 500

CHAPTER 669

AN ACT TO AUTHORIZE THE BOARD OF ALCOHOLIC CONTROL TO REFUSE TO ISSUE RETAIL MALT BEVERAGE AND WINE PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-43(b) is hereby amended by adding at the end thereof the following:

"In making its determination, the board may consider the number already holding permits within the neighborhood, parking facilities and traffic conditions, the recommendations of governing body of the city or county in which the premises is located, reputation and criminal record of the applicant, and any other factors directly related to the suitability of the person and the premises."

Sec. 2. G.S. 18A-38 is hereby amended by redesignating present subsections (f) and (g) as (g) and (h) respectively, and by adding the following new subsection (f):

"(f) Before the board shall issue a permit to an applicant, it shall give notice of such application to the municipal governing authority of the incorporated city or town, or to the board of county commissioners, if the application be for a permit outside the boundaries of incorporated cities or towns. Such local government shall have the right to file written objections with the board within 10 days after date of transmittal of such notice. Such objections shall include a

statement of all facts upon which such objections are based, and upon request, the board may, in its discretion, hold a formal hearing."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 644 CHAPTER 670

AN ACT TO AMEND ARTICLE 18A OF CHAPTER 90 OF THE GENERAL STATUTES CONTROLLING LICENSING OF PRACTICING PSYCHOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.2(f), as it appears in Volume 2C of the General Statutes, is amended by deleting the period after the word, "supervision", and by adding the following:

"in accordance with the duly adopted rules and regulations of the board."

Sec. 2. G.S. 90-270.3 is amended by deleting the third sentence beginning with the word, "In", on line 12 and ending with the word, "client", on line 15 which reads as follows:

"In rendering psychotherapy in any form, the licensed practicing psychologist or psychological examiner shall develop liaison, communication, and meaningful collaboration with a physician, duly licensed to practice medicine in North Carolina, designated by the client."

Sec. 3. G.S. 90-270.4, as it appears in Volume 2C of the General Statutes, is amended as follows:

(1) G.S. 90-270.4(a) is amended on line 10 after the word "remuneration" by deleting the period and adding the following:

"so long as such activities do not involve the practice of psychology as defined in this Article."

(2) G.S. 90-270.4(e) is amended by rewriting that subsection to read as follows:

"(e) Nothing in this Article shall be construed to limit or restrict physicians and surgeons or optometrists authorized to practice under the laws of North Carolina or to restrict qualified members of other professional groups who render counseling and other helping services including counselors, clergymen, social workers, and other similar professions, or to restrict qualified members of any other professional groups in the practice of their respective professions, provided they do not hold themselves out to the public by any title or description stating or implying that they are practicing psychologists or psychological examiners, or are licensed to practice psychology."

Sec. 4. G.S. 90-270.5 is amended by adding a new subsection (f) to read as follows:

"(f) An applicant for licensure as a practicing psychologist or as a psychological examiner, who meets all requirements for licensure except having passed the examination, may be issued a temporary license after receiving the degree required by G.S. 90-270.11 until he or she can take the next regularly scheduled examination and can be notified of the results."

Sec. 5. G.S. 90-270.6, as it appears in Volume 2C of the General Statutes, is amended as follows:

(1) By deleting the sentence beginning on line 4 and ending on line 6 of that section which reads as follows:

"At all times the board shall be composed of at least two members primarily engaged in graduate teaching or research in psychology and at least two members primarily engaged in rendering services in psychology."

(2) By deleting the third sentence of that section beginning on line 7 with the words, "At all times three members" and ending on line 8 with the words, "under this Article.", and substituting in lieu thereof the following:

"At all times four members shall be licensed practicing psychologists, and the fifth shall be either a licensed psychological examiner or a licensed practicing psychologist."

(3) By rewriting the fourth sentence of that section, beginning on line 8 to read as follows:

"Due consideration shall also be given to the adequate representation of the various fields and areas of practice of psychology."

(4) By deleting all of the fifth sentence after the words, "three years", and substituting in lieu thereof a period and by deleting all of the sixth and seventh sentences of that section beginning with the words, "Within 30 days after July 1, 1967,", and ending with the words, "as members of the board."

Sec. 6. G.S. 90-270.7 is amended by rewriting subdivision (2) to read as follows:

"(2) He shall hold a doctoral or master's degree in psychology;".

Sec. 7. G.S. 90-270.11 is amended as follows:

(1) By rewriting subdivision (a)(1)c. to read as follows:

"Has received his doctoral degree based on a planned and directed program of studies, the content of which was psychological in nature, from an accredited educational institution; and subsequent to receiving his doctoral degree has had at least two years of acceptable and appropriate supervised experience germane to his area of practice as a psychologist."

(2) By rewriting subdivision (b)(1)c. to read as follows: "c. Has received a master's degree in psychology from an accredited educational institution;".

Sec. 8. G.S. 90-270.12 is repealed.

Sec. 9. G.S. 90-270.15(a), as it appears in Volume 2C of the General Statutes, is amended as follows:

(1) By adding on line 2 after the word, "refused", and before the words, "or revoked", the following: ", suspended,".

(2) By adding a new subdivision (5) to read as follows: "(5) Has violated any provision of this Article or of the duly adopted rules and regulations of the board."

Sec. 10. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 708

CHAPTER 671

AN ACT TO AMEND G.S. 41-2.1, RIGHT OF SURVIVORSHIP IN BANK DEPOSITS CREATED BY WRITTEN AGREEMENT, SO AS TO MAKE SUCH DEPOSITS SUBJECT TO ADDITIONAL CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 41-2.1(b)(3) is hereby rewritten to read as follows:

"(3) Upon the death of either or any party to the agreement, the survivor, or survivors, become the sole owner, or owners, of the entire unwithdrawn deposit, subject to the following claims listed below in subdivisions a. through e. upon that portion of the unwithdrawn deposit which would belong to the deceased had the unwithdrawn deposit been divided equally between both or among all the joint tenants at the time of the death of the deceased:

a. the allowance of the year's allowance to the surviving spouse of the deceased;

b. the funeral expenses of the deceased;

c. the cost of administering the estate of the deceased;

d. the claims of the creditors of the deceased; and

e. governmental rights."

Sec. 2. G.S. 41-2.1(b)(4) is rewritten to read as follows:

"(4) Upon the death of one of the joint tenants provided herein the banking institution in which said joint deposit is held shall pay to the legal representative of the deceased, or to the clerk of the superior court if the amount is less than two thousand dollars ($2,000), the portion of the unwithdrawn deposit made subject to the claims and expenses as provided in subdivision (3) above, and may pay the remainder to the surviving joint tenant or joint tenants. Said legal representative shall hold the portion of said unwithdrawn deposit paid to him and not use the same for the payment of the claims and expenses as provided in subdivision (3) above unless and until all other personal assets of the estate have been exhausted, and shall then use so much thereof as may be necessary to pay said claims and expenses. Any part of said unwithdrawn deposit not used for the payment of said claims and expenses shall, upon the settlement of the estate, be paid to the surviving joint tenant or tenants."

Sec. 3. This act shall become effective July 1, 1977, and shall apply to accounts of persons dying on or after said date.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 873

CHAPTER 672

AN ACT TO MAKE THEATER EMPLOYEES SUBJECT TO THE NORTH CAROLINA MINIMUM WAGE ACT AND TO TEMPORARILY SET A TWO DOLLAR MINIMUM FOR SEASONAL RECREATIONAL EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-86(3)d. as it appears in the 1975 Cumulative Supplement to Volume 2C of the General Statutes is hereby rewritten to read as follows:

"d. Newsboys, shoeshine boys, caddies on golf courses, baby sitters;".

Sec. 2. Chapter 95 is further amended by adding a new Section G.S. 95-88 to read as follows:

"§ 95-88. *Seasonal recreational employees.*—Notwithstanding the minimum wage rate set by G.S. 95-87, the minimum wage for any employee employed by an establishment which is a seasonal religious assembly or a seasonal amusement or recreational establishment shall be two dollars ($2.00). A seasonal religious assembly or a seasonal amusement or recreational establishment is an establishment which does not operate for more than seven months in any calendar year, or during the preceding calendar year its average receipts for any six months of such year were not more than thirty-three and one-third percentum (33 1/3%) of its average receipts for the other six months of such year. This section shall be null and void effective July 1, 1979."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 884 CHAPTER 673

AN ACT TO TRANSFER NORTH CAROLINA HOUSING FINANCE AGENCY FROM THE DEPARTMENT OF THE TREASURER TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES AND TO MAKE NECESSARY CONFORMING AND TECHNICAL CHANGES IN THE GENERAL STATUTES OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 122A is amended by: expressly transferring by a Type II transfer, as defined by G.S. 143A-6, the North Carolina Housing Finance Agency to the Department of Natural and Economic Resources.

Sec. 2. Whenever the words "Department of the Treasurer" are used in the provisions of G.S. 122A-1 through G.S. 122A-20, the same shall be deleted and the words "Department of Natural and Economic Resources" shall be inserted in lieu thereof.

Sec. 3. Whenever the word "Treasurer" is used in the provisions of G.S. 122A-1 through G.S. 122A-20, the same shall be deleted and the words "Secretary of the Department of Natural and Economic Resources" shall be inserted in lieu thereof.

Sec. 4. The first paragraph of G.S. 122A-4 as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is rewritten to read as follows:

"§ 122A-4. *North Carolina Housing Finance Agency.*—There is hereby created a body politic and corporate to be known as 'North Carolina Housing Finance Agency' which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. The agency shall be governed by a board of directors composed of 14 members. One member shall be the Secretary of the Department of Natural and Economic Resources serving ex officio. Four of the members of said board shall be members of the General Assembly, two from each house thereof, the two members from the Senate to be appointed by the President of the Senate and the two members from the House to be appointed by the Speaker of the House. The remaining directors of the agency shall be residents of the State and shall not hold other public office. The President of the Senate also shall appoint one

director who shall be experienced with a savings and loan institution and one director who shall be experienced in home building. The Speaker of the House also shall appoint one director who shall have had experience with a mortgage-servicing institution and one director who shall be experienced as a licensed real estate broker. The Governor shall appoint four of the directors of the agency; one of such appointees shall be experienced in community planning, one shall be experienced in subsidized housing management, one shall be experienced as a specialist in public housing policy, and one shall be experienced in the manufactured housing industry. The eight nonlegislative directors of the agency thus appointed shall be appointed for staggered four-year terms, two being appointed initially for one year by the President of the Senate and Speaker of the House, respectively, two for two years, by the President of the Senate and by the Speaker of the House, respectively, two for three years and two for four years, respectively, as designated by the Governor, and shall continue in office until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the board of directors shall be eligible for reappointment. The four directors who are members of the General Assembly shall be appointed for a term of two years. The 13 members of the board shall then elect a fourteenth member to the board by simple majority vote. Each nonlegislative member of the board of directors may be removed by the Governor for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the same are in writing expressly waived. Each nonlegislative member of the board of directors before entering upon his duties shall take an oath of office to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the Secretary of State. The Governor shall designate from among the members of the board a chairman and a vice-chairman. The terms of the chairman and vice-chairman shall extend to the earlier of either two years or the date of expiration of their then current terms as members of the board of directors of the agency. The Secretary of Natural and Economic Resources or his designee shall serve as secretary of the board. The agency shall be placed within the Department of Natural and Economic Resources; provided, however, that the approval of the Secretary of Natural and Economic Resources shall not be required for the exercise by the agency of any of the powers granted by this Chapter. The board of directors shall, subject to the approval of the Secretary of the Department of Natural and Economic Resources, elect and appoint and prescribe the duties of such other officers as it shall deem necessary or advisable, and the Advisory Budget Commission shall fix the compensation of such officers. All personnel employed by the agency shall be subject to the State Personnel Act and the books and records of the agency shall be subject to audit by the State.

Sec. 5. G.S. Chapter 122A is hereby amended by renumbering G.S. 122A-21 through G.S. 122A-23 as G.S. 122A-22 through G.S. 122A-24, and by inserting a new G.S. 122A-21, to read as follows:

"§ 122A-21. *Powers of the State Treasurer.*—Notwithstanding any other provisions of this act, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under the act upon request of the agency and with the approval of the Local Government Commission.

The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this act.

The North Carolina Housing Finance Agency shall determine when a bond issue is indicated. The agency shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys.

The State Treasurer shall have the exclusive power to employ and designate the financial consultants, underwriters, and bond attorneys to be associated with the bond issue.

The Advisory Budget Commission shall provide to the State Treasurer the funds necessary to defray the costs incurred in performing the fiscal functions reserved to the Treasurer under this act from the funds allocated to the agency pursuant to the 1975 Session Laws.

Nothing in this act is intended to abrogate or diminish the inherent power of the State Treasurer to negotiate the terms and conditions of the bonds and notes, and to issue the bonds and notes authorized by General Statutes Chapter 122A."

Sec. 6. All records, personnel, property, unexpended balances of appropriations and every other incident to the operation of the North Carolina Housing Finance Agency of every kind are transferred with the North Carolina Housing Finance Agency to the Department of Natural and Economic Resources.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 919 CHAPTER 674

AN ACT TO AMEND PART 2, ARTICLE 3 OF CHAPTER 108 AND G.S. 143B-153(3)c. TO PROVIDE THAT THE DEPARTMENT OF HUMAN RESOURCES SHALL INSPECT AND LICENSE ALL CHILD-CARING INSTITUTIONS IN NORTH CAROLINA EXCEPT THOSE SPECIFICALLY EXEMPT.

The General Assembly of North Carolina enacts:

Section 1. The headline of Part 2, Article 3 of Chapter 108 of the General Statutes is hereby amended by deleting therefrom the word "Private".

Sec. 2. The catch line of G.S. 108-78 is hereby amended by deleting therefrom the word "private".

Sec. 3. G.S. 108-78(a), as the same appears in Volume 3A of the General Statutes, is hereby amended by deleting from line 2 thereof the word "private".

Sec. 4. G.S. 108-78(b), as the same appears in Volume 3A of the General Statutes, is hereby amended by deleting from line 1 thereof the word "private".

Sec. 5. G.S. 108-78(c), as the same appears in Volume 3A of the General Statutes, is hereby amended by deleting the period at the end thereof and substituting therefor the following: "and which was in operation prior to July 1, 1977."

Sec. 6. G.S. 108-78(c) is hereby further amended by adding the following sentence at the end thereof:

"Neither shall this section apply to State institutions for the mentally handicapped or to State institutions for the detention of juveniles."

Sec. 7. G.S. 143B-153(3)c., as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting from line 1 thereof the word "private".

Sec. 8. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 976 CHAPTER 675

AN ACT TO AMEND G.S. 1A-1, RULE 55, TO AUTHORIZE ENTRY OF DEFAULT JUDGMENT ON MOTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 55(a), is amended in line 3 after the word "affidavit" by inserting the punctuation and words: ", motion of attorney for the plaintiff,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 1073 CHAPTER 676

AN ACT TO AMEND CHAPTER 18A OF THE GENERAL STATUTES TO PERMIT THE SALE OF WINE COCKTAILS IN GRADE A RESTAURANTS WITH ON-PREMISES WINE PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-38(e) is amended by rewriting the first sentence of subdivision (1) to read as follows: "'On-premises' permits shall be issued only to bona fide hotels, cafeterias, cafes, and restuarants which have a Grade A rating from the Commission for Health Services, and shall authorize the permittees to sell at retail unfortified wine, either separate or mixed with nonalcoholic beverages, for consumption on the premises designated in the permit, and to sell unfortified wine in original containers for consumption off the premises."

Sec. 2. G.S. 18A-38(f), as it appears in 1975 Replacement Volume 1C of the General Statutes, is amended by changing the semicolon after the word "consumption" in line 5 to a period and by rewriting the remainder of that subsection to read as follows: "Fortified wine sold for consumption on licensed premises may be sold either separate or mixed with nonalcoholic beverages. All sales of fortified wine shall be subject to the rules and regulations of the State ABC Board."

Sec. 3. G.S. 18A-47(b) is amended by adding the following new sentence at the end of the first paragraph of that subsection: "No such written statement shall be required for a glass in which wine is sold, either separate or mixed with nonalcoholic beverages, for consumption on licensed premises."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 1179

CHAPTER 677

AN ACT TO AUTHORIZE THE ISSUANCE OF TWO HUNDRED THIRTY MILLION DOLLARS IN BONDS OF THE STATE TO PROVIDE FUNDS FOR ENVIRONMENTAL IMPROVEMENT THROUGH GRANTS TO UNITS OF GOVERNMENT FOR CONSTRUCTION AND IMPROVEMENT OF WASTEWATER TREATMENT WORKS, WASTEWATER COLLECTION SYSTEMS AND WATER SUPPLY SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "North Carolina Clean Water Bond Act of 1977".

Sec. 2. Purpose. The problem of polluted and befouled lakes, streams and estuaries in the State of North Carolina, already serious and destined to grow worse unless immediate action is taken, is a matter of vital concern to the General Assembly. A major factor in the pollution problem is the discharge of waste to the waters of this State by municipalities and other population concentrations from wastewater systems that are inadequate, antiquated and, in some instances, nonexistent.

A problem of equally pressing importance is that of insuring to the citizens of this State an adequate supply of pure water for domestic consumption. The steady growth of population and an increasingly urbanized population have created a constantly rising demand for water at the same time that the available sources of pure water are decreasing. The situation thus created has overtaxed the capacity of many existing water supply systems and has also led to a proliferation of small water supply systems which are costly to construct and operate and which frequently do not provide a desirable quantity or quality of water.

Although most of those units of government that are faced with these problems have made strenuous efforts to improve and expand existing facilities to meet the public need, many have found securing the necessary funds to be difficult, if not impossible. It is the intent and purpose of the General Assembly by this act to provide for the issuance of two hundred thirty million dollars ($230,000,000) in bonds of this State, and to provide that the proceeds realized from the sale of the bonds shall be allocated primarily as grants to local units of government to stimulate the construction and improvement of wastewater treatment works, wastewater collection systems and water supply systems to provide a clean and healthful environment and an abundant supply of pure water.

Although the funds derived from the sale of the bonds authorized by this act shall be used primarily to encourage and assist local government units to meet their responsibilities, it is not intended nor is it possible for the State to assume those responsibilities. They must and properly ought to be met by local governments, responsive to the needs and demands of their citizens, through forceful and appropriate action to resolve existing environmental problems and to meet those that the future portends.

The funds to be derived from the sale of the bonds authorized by this act are sufficient to meet no more than a fraction of the needs which now exist and will arise in the immediate future. For this reason, although public necessity will be the primary consideration in granting funds, great emphasis must be

placed on the availability of matching grants and loans from other sources; the creation of efficient systems of regional wastewater disposal and regional water supply; and the willingness and ability of local government units to meet their responsibilities through sound fiscal policies, creative planning and efficient operation and management.

The General Assembly directs, therefore, that those agencies of this State charged with administration of this act, in order to achieve the wisest use of the funds herein provided for, shall exercise the utmost care and judgment in approving grants under this act, for which the ultimate criterion shall be the greatest benefit to the greatest number.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

(1) "Environmental Management Commission" shall mean the North Carolina Environmental Management Commission created by Part 4 of Article 7 of Chapter 143B of the General Statutes, or, should said commission be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said commission.

(2) "Construction cost" shall mean the actual cost of planning, designing, and constructing any project for which a grant is made under this act including planning; environmental assessment; sewer system analysis, evaluation and rehabilitation; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, and wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. In addition construction cost shall include any fees payable to the Environmental Management Commission pursuant to G.S. 143-215.3(a)(1) for review of grant applications and fees for inspections pursuant to Section 15 of this act. Such costs may include the cost of real property as provided for in this act, but shall not include recurring annual expenditures for administration, repairs, operation and maintenance of any wastewater or water supply systems.

(3) "Department of Administration" shall mean the North Carolina Department of Administration created by Article 9 of Chapter 143B of the General Statutes, or, should said department be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said department.

(4) "Receiving agency" shall mean the Division of Health Services with relation to receipt of applications for grants for water supply systems and the Environmental Management Commission with relation to receipt of applications for grants for wastewater treatment works or wastewater collection systems.

(5) "Division of Health Services" shall mean the Division of Health Services of the North Carolina Department of Human Resources, or, should said division be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said division.

(6) "State Treasurer" shall mean the Treasurer of the State of North Carolina as provided in Article III of the Constitution of North Carolina and

vested with those powers and duties set forth in Article 6 of Chapter 147 of the General Statutes.

(7) "Unit of government" shall mean any incorporated city, town or village, county, sanitary district, metropolitan sewerage district, water or sewer district, watershed improvement district, water or sewer authority, special purpose district, other municipality, or any agency, board, commission, department or political subdivision or public corporation of the State, now or hereafter created or established, empowered to provide water supply systems, wastewater collection systems or wastewater treatment works.

(8) "Wastewater collection system" shall mean a unified system of pipes, conduits, pumping stations, force mains, and appurtenances for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings.

(9) "Wastewater treatment works" shall mean the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances.

(10) "Water supply system" shall mean a public water supply system consisting of facilities and other works for supplying, treating and distributing potable water including, but specifically not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pumping equipment and all other necessary appurtenances, equipment and structures.

Sec. 4. Bond election. (a) North Carolina Clean Water Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who shall vote thereon in an election called and held as hereinafter provided, the State Treasurer is hereby authorized, by and with the consent of the Governor and Council of State, to issue and sell, at one time or from time to time, bonds of the State, to be designated "State of North Carolina Clean Water Bonds", in an aggregate principal amount not exceeding two hundred thirty million dollars ($230,000,000).

(b) Referendum. The question of the issuance of the two hundred thirty million dollar ($230,000,000) State of North Carolina Clean Water Bonds shall be submitted to the qualified voters of the State of North Carolina at an election to be held on a date not later than November 8, 1977, to be fixed by the Governor by a proclamation issued by him; provided, that the election herein provided for may be held on the same day as any other State, county, municipal or district election, and any other State, county, municipal or district election may be validly held on the same day as the bond election provided for in this act. Notice of the bond election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in said election. The State shall reimburse the counties of the State for all necessary expenses incurred in holding the election and registration therefor, the same to be paid out of the Contingency and Emergency Fund unless the payment of such expenses is otherwise expressly provided for. The State Board of Elections shall cause to be printed and

distributed the ballots which are to be used in said election, which ballots shall be substantially in the following form:

"OFFICIAL BALLOT
TWO HUNDRED THIRTY MILLION DOLLARS
STATE OF NORTH CAROLINA
CLEAN WATER BONDS

Instructions for Marking Ballot

(a) To vote in favor of the issuance of the bonds, make a cross (X) mark in the square opposite the words 'For the issuance of $230,000,000 State of North Carolina Clean Water Bonds'.

(b) To vote against the issuance of the bonds, make a cross (X) mark in the square opposite the words 'Against the issuance of $230,000,000 State of North Carolina Clean Water Bonds'.

(c) If you tear or deface or wrongly mark this ballot, return it and get another.

☐ For the issuance of $230,000,000 State of North Carolina Clean Water Bonds.

☐ Against the issuance of $230,000,000 State of North Carolina Clean Water Bonds.

_____(Facsimile Signature)
Chairman, State Board of Elections."

Those voting in the election who are in favor of the issuance of the bonds shall vote by making an X in the square opposite the words "For the issuance of $230,000,000 State of North Carolina Clean Water Bonds".

Those opposed to the issuance of the bonds shall vote by making an X in the square opposite the words "Against the issuance of $230,000,000 State of North Carolina Clean Water Bonds".

Notwithstanding the foregoing provisions of this subsection, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting thereon in the election shall vote in favor of the issuance of the bonds, the bonds shall be issued as hereinbefore provided. In the event a majority of those voting thereon in the election shall vote against the issuance of the bonds, the bonds shall not be issued.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 5. Issuance of bonds. (a) Terms and conditions. Bonds authorized by this act shall bear such date or dates, shall be serial bonds, and shall mature at such times and in such amounts, not exceeding 30 years from their date or respective dates, and may be made redeemable before maturity, at the option of the State, at such price or prices and under such terms and conditions, and shall bear interest at such rate or rates, all as may be fixed by the State Treasurer with the approval of the Governor and Council of State.

(b) Signatures; form and denomination; registration; reconversion. The bonds issued pursuant to this act shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer, or shall bear his facsimile signature; shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of

the State Treasurer. In the event that the bonds shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant as designated by the State Treasurer. Should any officer whose signature or facsimile appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(c) Manner of sale; expenses. Subject to determination by the Governor and Council of State as to the manner in which the bonds shall be offered for sale whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest. All expenses incurred in the sale and issuance of the bonds and any bond anticipation notes herein authorized shall be paid from the proceeds of the sale of such bonds or bond anticipation notes.

The proceeds of sale of the bonds and the bond anticipation notes herein authorized, except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes, shall be placed by the State Treasurer in a special fund known as the "Clean Water Fund" and shall be disbursed only for the purposes provided in this act.

(d) Notes; repayment.

(1) By and with the consent of the Governor and Council of State, who shall determine the rate or rates or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable, and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

a. For anticipating the sale of any bonds to the issuance of which the Governor and Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds.

b. For the payment of interest upon or any installment of principal of any of the bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay the interest or installment of principal as they respectively become due.

c. For the renewal of any loan evidenced by notes herein authorized.

(2) Funds derived from the sale of bonds herein authorized shall be used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of bonds and any renewals of such notes; and funds provided by the General Assembly for payment of the interest on or principal of bonds herein authorized shall be used in paying the interest on or principal of any notes and any renewals thereof the proceeds of which shall have been used in paying interest on or principal of the bonds. Interest payments upon the notes may be evidenced by interest coupons in the State Treasurer's discretion.

(e) Coupons receivable in payment, etc. The coupons appertaining to the bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatever due the State.

(f) Tax exemptions. All of the bonds, notes and coupons authorized by this act shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on the bonds and notes shall not be subject to taxation as to income, nor shall the bonds, notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

(g) Investment in bonds lawful. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissions, to invest any moneys in their hands in said bonds and notes.

(h) Full faith, credit, taxing power pledged. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 6. Clean Water Fund. There is hereby created in the Department of Administration a fund to be known as the Clean Water Fund, to be administered by the Department of Administration, which shall be responsible for receipt and disbursement of all moneys as provided in this act.

Sec. 7. Use of bond proceeds; allocation. (a) Grants.

(1) Purpose. All moneys paid into the Clean Water Fund, other than those set aside for administrative expenses and to defray expenses incurred in the sale of the bonds and the issuance of notes herein authorized, shall be used for grants to units of government for the construction of new or the improvement or expansion of existing wastewater treatment works, wastewater collection systems and water supply systems. If the purchase or acquisition of real property constitutes a substantial portion of the necessary construction costs of any project, and if the applicant demonstrates that it is incapable of bearing such costs, the receiving agency, in its sole discretion, may authorize the use of grant funds, in such amount as it shall determine, for such purposes; but if any portion of the project funds shall be a federal grant or loan which may not be used for such purposes, then no grant for such purposes shall be made under this act except as hereinafter provided.

(2) Limitation. The maximum grant made under this act shall not exceed twenty-five percent (25%) of the total construction costs of any project or fifty percent (50%) of the nonfederal share, whichever is less, unless a grant of a greater percentage is determined by the receiving agency to be necessary for the project:

a. To qualify for a federal loan or grant.

b. To meet an extreme public necessity.

c. To provide funds for the purchase or acquisition of necessary real property when federal grant or loan funds may not be used for such purposes. In no event shall any grant made under this act exceed thirty percent (30%) of the total construction cost of any project, and to the extent that a grant exceeds twenty-five percent (25%) of project costs, the percentage in excess of twenty-five percent (25%) shall require approval by the Advisory Budget Commission.

(b) Contingency Account. The Department of Administration, with the concurrence of the Advisory Budget Commission, from time to time shall allocate funds, not to exceed seven million five hundred thousand dollars

($7,500,000) in the aggregate, from the proceeds of the sale of the bonds herein authorized to a Contingency Account, which shall be maintained and administered as follows:

(1) Subject to the approval of the Advisory Budget Commission, the Department of Administration may make allocations from the Contingency Account for the following purposes:

a. To meet the administrative expenses of the Department of Administration, Department of State Treasurer, the Division of Health Services, and the Environmental Management Commission incurred in the administration of this act in excess of the normal operating expenses of the agencies; but the total administrative expenses, in the aggregate, allocated from the Contingency Account shall not exceed one percent (1%) of the proceeds of the bond sale authorized by this act, exclusive of such funds as may be allocated to the Contingency Account from the Contingency and Emergency Fund, as provided in subdivision (2) of this subsection.

b. To provide funds for new grants or for supplemental wastewater treatment works grants when the funds allocated for any fiscal year are insufficient and the Advisory Budget Commission, upon recommendation of the receiving agency and the Department of Administration, determines that there are sufficiently compelling reasons for providing funds from the Contingency Account.

(2) Each agency entitled to receive administrative expense funds from the Contingency Account shall prepare an itemized estimate of administrative funds required for the succeeding fiscal year, and the Division of Health Services, Department of State Treasurer and the Environmental Management Commission shall deliver their estimates to the Department of Administration at least 45 days prior to the beginning of the fiscal year for which the funds are required. The Department of Administration shall determine the administrative expense funds available and, along with its recommendations, shall deliver the estimates of the Division of Health Services, Department of State Treasurer and of the Environmental Management Commission and its own estimate, if any, to the Advisory Budget Commission at least 30 days prior to the beginning of the fiscal year for which the funds are required. Any administrative expense funds approved by the Advisory Budget Commission shall be disbursed by the Department of Administration to the appropriate agency. If the administrative expense funds disbursed to any agency shall prove insufficient, it may apply at any time during the fiscal year for additional funds in the manner above provided. If the funds provided in this act for administrative expenses are exhausted, the Department of Administration, with the concurrence of the Advisory Budget Commission, may apply for disbursement to the Contingency Account of funds for administrative expenses from the Contingency and Emergency Fund. Funds in the account for administrative expenses not used to defray agency expenses, other than funds disbursed from the Contingency and Emergency Fund, shall be used for the other purposes of this act. Unused funds in the account for administrative expenses disbursed from the Contingency and Emergency Fund shall be returned to said fund.

(3) To the extent that the Advisory Budget Commission deems feasible and appropriate, funds in the Contingency Account, other than funds for administrative expenses and for costs and expenses of sale of bonds and issuance

of notes, shall be made available equally to the Division of Health Services and to the Environmental Management Commission; and to this end, any funds remaining in the Contingency Account, at the end of the fiscal year beginning July 1, 1981, other than administrative expense funds, shall be allocated between the two agencies for grants pursuant to this act in inverse ratio to the aggregate allocations from the Contingency Account to each agency during the preceding five fiscal years, as determined from the accounts of the Department of Administration, unless the Advisory Budget Commission shall determine, in its discretion, that some other distribution is more appropriate.

(c) Pollution Control Account. The sum of one hundred twelve million five hundred thousand dollars ($112,500,000) of the proceeds of the sale of the bonds authorized by this act shall be allocated to a Pollution Control Account, from which shall be made grants to units of government for the construction, improvement or expansion of wastewater treatment works and wastewater collection systems and, where authorized, for the acquisition of real property or interests in real property necessary for the construction, expansion or improvement of such works or systems. The Department of Administration shall disburse no funds from the Pollution Control Account except upon receipt by it of written approval of the disbursement from the Environmental Management Commission.

(1) Seventy-five million dollars ($75,000,000) of the funds allocated to the Pollution Control Account shall be used exclusively for the purpose of providing the State's share of the funds required for an approved wastewater treatment works project to qualify for federal grants; provided, however, that any funds which cannot be used exclusively for such purpose shall be used exclusively for the purpose of grants to pay a portion of the nonfederal share (not to exceed the limitations set forth in subsection (a)(2) of Section 7 of this act) of the eligible construction costs of approved wastewater treatment works projects which qualify for federal grants.

(2) The sum of thirty-seven million five hundred thousand dollars ($37,500,000) allocated to the Pollution Control Account shall be allotted among the various counties of the State in the proportion that the population of each county bears to the total population of the State, as such populations were determined by the 1970 Decennial Census of the United States Department of Commerce exclusively for grants to the counties or units of government therein for wastewater collection systems projects; and the allocations of funds for grants under the provisions of this subdivision shall not be made in an aggregate amount exceeding seven million five hundred thousand dollars ($7,500,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding fifteen million dollars ($15,000,000) in the first two fiscal years, or in an aggregate amount exceeding twenty-two million five hundred thousand dollars ($22,500,000) in the first three fiscal years, or in an aggregate amount exceeding thirty million dollars ($30,000,000) in the first four fiscal years, or in an aggregate amount exceeding thirty-seven million five hundred thousand dollars ($37,500,000) in the fifth fiscal year.

(d) Water Supply Systems Account. The sum of one hundred ten million dollars ($110,000,000) of the proceeds of sale of the bonds authorized by this act shall be allocated to a Water Supply Systems Account from which shall be made grants to units of government for the construction, expansion or improvement of water supply systems and, where authorized, for the acquisition of real

property or interests in real property necessary for the construction, expansion, or improvement of water supply systems. The Department of Administration shall disburse no funds from the Water Supply Systems Account except upon receipt by it of written approval of the disbursement from the Division of Health Services.

(1) Seventy-nine million dollars ($79,000,000) of the funds allocated to the Water Supply Systems Account shall be allotted among the various counties of this State in the proportion that the population of each county bears to the total population of the State, as such populations were determined by the 1970 Decennial Census of the United States Department of Commerce for grants to the counties or units of government therein; and the allocations of funds for grants under the provisions of this subdivision shall not be made in an aggregate amount exceeding fifteen million eight hundred thousand dollars ($15,800,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding thirty-one million six hundred thousand dollars ($31,600,000) in the first two fiscal years, or in an aggregate amount exceeding forty-seven million four hundred thousand dollars ($47,400,000) in the first three fiscal years, or in an aggregate amount exceeding sixty-three million two hundred thousand dollars ($63,200,000) in the first four fiscal years, or in an aggregate amount exceeding seventy-nine million dollars ($79,000,000) in the fifth fiscal year.

(2) Thirty-one million dollars ($31,000,000) of the funds allocated to the Water Supply Systems Account shall be used for the purpose of providing grant funds for water supply systems projects generally and not upon a county allotment basis and the allocations of funds for grants under the provisions of this subdivision shall not be made in an aggregate amount exceeding six million two hundred thousand dollars ($6,200,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding twelve million four hundred thousand dollars ($12,400,000) in the first two fiscal years, or in an aggregate amount exceeding eighteen million six hundred thousand dollars ($18,600,000) in the first three fiscal years, or in an aggregate amount exceeding twenty-four million eight hundred thousand dollars ($24,800,000) in the first four fiscal years, or in an aggregate amount exceeding thirty-one million dollars ($31,000,000) in the fifth fiscal year.

(e) Annual allocations. Allocations of grants under the provisions of this act, including grants made from the Contingency Account, shall not be made in an aggregate amount exceeding forty-six million dollars ($46,000,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding ninety-two million dollars ($92,000,000) in the first two fiscal years, or in an aggregate amount exceeding one hundred thirty-eight million dollars ($138,000,000) in the first three fiscal years, or in an aggregate amount exceeding one hundred eighty-four million dollars ($184,000,000) in the first four fiscal years, or in an aggregate amount exceeding two hundred thirty million dollars ($230,000,000) in the first five fiscal years; provided, that the aggregate allocations for any fiscal year, except the fifth fiscal year, may be exceeded upon concurrence of the Advisory Budget Commission if the funds in excess of the aggregate sum are required to provide the State's share of funds for projects pursuant to subsection (c)(1) of this section.

Sec. 8. Continuity of grant funds. (a) Any funds uncommitted for grants as of June 30, 1977, under either Section 7(c) or Section 7(d) of the Clean Water Bond Act of 1971 shall be allocated thereafter for grants pursuant to Section

7(c) and Section 7(d) of this act and administered in accordance with existing rules and regulations until such time as rules and regulations as provided for in Section 16 of this act shall become effective.

(b) Grant funds under Section 7(c)(1) and (2) and Section 7(d)(1) and (2) may be administered according to existing rules and regulations under the Clean Water Bond Act of 1971 until such time as rules and regulations as provided for in Section 16 of this act shall become effective.

(c) Any funds uncommitted for grants as of June 30, 1982, under Section 7(c)(2) shall be allocated thereafter for grants pursuant to Section 7(c) (1); funds uncommitted under Section 7(d)(1) shall be allocated for grants after June 30, 1982, pursuant to Section 7(d)(2).

(d) Funds under this act shall be allocated for grants except that any funds which are uncommitted on June 30, 1987, shall revert to the General Fund.

Sec. 9. Application for grant; environmental assessment; notice; hearing. (a) Application. All applications for grants for water supply systems shall be filed with the Division of Health Services and all applications for grants for wastewater treatment works or wastewater collection systems shall be filed with the Environmental Management Commission. Every application for a grant from county allotment funds under this act shall so state and shall identify the county. Every applicant shall also file with the Department of Administration such information concerning the application as the Department of Administration may require by rules or regulations adopted pursuant to this act.

The Department of Administration, the Division of Health Services and the Environmental Management Commission may develop jointly and adopt a standard form of application for grants under this act. Any application for construction grants under the Federal Water Pollution Control Act may be considered as an application for grants under Section 7(c)(1) of this act. The information required to be set forth in the application shall be sufficient to permit the respective agencies to determine the eligibility of the applicant and to establish the priority of the application, as set forth in this act.

Any applicant shall furnish information in addition or supplemental to the information contained in its application upon request by the receiving agency.

(b) Environmental assessment. Every applicant shall file with its application an assessment setting forth the impact that the project for which grant funds are sought will have upon the environment of the area within which the project is proposed to be located. The assessment shall set forth the impact of the project upon water resources, other natural resources, land use patterns, and such other factors as the Division of Health Services or the Environmental Management Commission shall require by duly adopted rules and regulations. Any environmental assessment required as part of an application for construction grants under the Federal Water Pollution Control Act may satisfy the requirements of this provision. If, after reviewing the environmental assessment, the Division of Health Services or the Environmental Management Commission concludes that an environmental impact statement is required, then the application will receive no further consideration until a final environmental impact statement has been completed and approved.

(c) Notice. Within 60 days after the receipt of any application filed pursuant to Section 7(c)(2) or Section 7(d)(1), the receiving agency shall give

notice of the application, sufficient to describe the nature, location and the extent of the project for which grant funds are sought, as follows:

(1) Notice by first-class mail to the governing body or chief executive officer of every local government unit located within the county or counties in which the project for which grant funds are sought is located or proposed to be located.

(2) Notice by publication once in a newspaper published or having general circulation within the county or counties in which the project for which grant funds are sought is located or proposed to be located.

(d) Hearings. A public hearing shall be held by the receiving agency on any application filed pursuant to Section 7(c)(2) or Section 7(d)(1) in accordance with the provisions of this subsection, upon written request received by the agency within 15 days after mailing the notice required by this section from any person named in subsection (c)(1) of this section. A public hearing may be held by the receiving agency upon written request received within 15 days after the date of publication of the notice from any citizen or taxpayer who is a resident of the county or counties in which the project is or is proposed to be located if it appears that the public interest will be served by such hearing. The written request shall set forth each objection to the proposed project or other reasons for requesting a hearing on the application and shall contain the name and address of the person(s) submitting it. The receiving agency shall consider all written objections to the proposed project and other statements along with the application, including any significant adverse effects that the proposed project may have on the environment, and shall determine if the public interest will be served by a hearing. The determination by the receiving agency shall be conclusive; but all written requests for a hearing shall be retained as a permanent part of the records pertaining to the application, whether or not the request is granted. A hearing may be held regarding any application filed pursuant to Section 7(c)(1) or Section 7(d)(2) if the receiving agency determines that the public interest will be served by such a hearing.

Sec. 10. Eligibility. No applicant shall be eligible for a grant under this act unless it shall demonstrate to the satisfaction of the receiving agency that:

(1) The applicant is a unit of government as defined in this act.

(2) The applicant has the financial capacity to provide its share of project funds.

(3) The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations and ordinances, federal, State and local.

(4) The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance and administration of the project.

Sec. 11. Priorities. (a) Determination. Determination of priorities to be assigned each eligible application shall be made semiannually by the appropriate receiving agency during each fiscal year. Every eligible application filed pursuant to Section 7(c)(1) or Section 7(d)(2) shall be considered by the receiving agency with every other application filed pursuant to Section 7(c)(1) or Section 7(d)(2) respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Every eligible application filed pursuant to Section 7(c)(2) or Section 7(d)(1)

shall be considered by the receiving agency with every other application filed from within the same county pursuant to Section 7(c)(2) or Section 7(d)(1), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Any application which does not contain the information required by this act or regulations adopted by the receiving agency(s) to implement the act shall not be deemed received until such information is furnished by the applicant to the receiving agency.

(b) Priority factors. All applications for grants under this act eligible for consideration during each priority period shall be assigned a priority for grant funds by the receiving agency. In determining priorities, the receiving agency:

(1) shall give primary consideration to the public necessity of the project in promoting the public health, safety and welfare; and

(2) shall also give consideration to:

a. the eligibility of the proposed project for federal grants;

b. the compatibility of the proposed project with the State's general program of water supply and water pollution control, any applicable regional planning program and the population to be served;

c. the fiscal responsibility of the applicant;

d. the need of the applicant for funding assistance.

(c) Any priority system established for construction grants under the Federal Water Pollution Control Act shall satisfy the requirements of this section.

(d) Assignment of priority. A written statement relative to each priority assigned shall be prepared by the agency assigning the priority and shall be attached to the application; and the priority assigned shall be conclusive.

(e) Failure to qualify. Any application filed pursuant to Section 7(c) or Section 7(d) that does not qualify for a grant as of the priority period in which the application was eligible for consideration by reason of the priority assigned the application shall be considered for a grant during the next succeeding priority period upon request of the applicant. If such application should again fail to qualify for a grant during the second priority period by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application for a grant at any time, and may amend any pending application to include data or information which would tend to qualify the application for a higher priority.

Sec. 12. Withdrawal of grant commitment. Failure of an applicant, within one year of the date of acceptance of a grant award, to (1) arrange for necessary financing of the proposed project, or (2) to award a contract for the construction of the proposed project, shall constitute sufficient cause for withdrawal of the grant commitment. Prior to withdrawal of a grant commitment, the appropriate receiving agency shall give due consideration to any extenuating circumstances presented by the applicant as reasons for its failure to arrange necessary financing or to award a contract, and the grant commitment may be extended for an additional period of time if, in the judgment of the receiving agency, such an extension is justified.

Sec. 13. Disbursement of funds. No funds shall be disbursed by the Department of Administration for any grant until it has received from the appropriate receiving agency a certificate of eligibility to the effect that the

applicant meets all eligibility criteria, and that notice and hearing requirements of this act have been met.

In the event that the grant payments are to be made in installments, no installment payment shall be disbursed by the Department of Administration until it has received from the appropriate receiving agency a written request for disbursement.

Sec. 14. Payment of grants. The receiving agency, in its sole discretion, may determine whether the payment of any grant made under this act shall be in a lump sum or in installments as progress payments and shall, by adoption of appropriate rules and regulations, provide for the manner of approval and payment of grants.

Sec. 15. Inspection. Inspection of a project for which a grant has been made under this act may be performed by qualified personnel of the Division of Health Services or the Environmental Management Commission or may be performed by qualified professional engineers, registered in this State, who have been approved by the Division of Health Services or the Environmental Management Commission; but no person shall be approved to perform inspections who is an officer or employee of the unit of government to which the grant was made or who is an owner, officer, employee or agent of a contractor or subcontractor engaged in the construction of the project for which the grant was made. For the purpose of payment of inspection fees, inspection services shall be included in the term "construction cost" as used in this act.

Sec. 16. Rules and regulations. (a) Adoption. The Department of Administration, the Commission of Health Services and the Environmental Management Commission, in order to accomplish the efficient administration and uniform application of this act, are empowered to adopt, modify and revoke rules of procedure establishing and amplifying the procedures to be followed in the administration of this act and regulations interpreting and applying the provisions of this act. To the extent practicable and feasible, uniform rules and regulations may be jointly adopted, and no rule or regulation jointly adopted may be modified or revoked except upon concurrence of all three agencies.

(b) Approval; duplication. No rule or regulation adopted by the Department of Administration, the Commission of Health Services or the Environmental Management Commission, or each of them, pursuant to this act, shall become effective until approved by the Advisory Budget Commission and until printed or otherwise duplicated and a certified copy filed with the Secretary of State or other official of the State designated by law.

(c) Copies furnished. A copy of its rules and regulations adopted pursuant to this act shall be furnished free of charge by the receiving agency and the Department of Administration to any governmental unit. Any other person shall be entitled to receive a copy upon payment of a reasonable charge for printing or duplication if the receiving agency or Department of Administration shall so require.

Sec. 17. Federal grants and loans. In order to carry out the purpose of this act to secure the greatest benefits possible to the citizens of this State from the funds herein provided for, the Department of Administration, the Commission for Health Services and the Environmental Management Commission are authorized and directed to adopt such rules, regulations and criteria pursuant to and in accordance with this act as are necessary and appropriate to conform to federal requirements for federal grants and loans for

any of the purposes set forth in this act. If any applicant for grant funds under this act for a project otherwise eligible for a federal grant or loan fails to qualify for such grant or loan by reason of the failure or refusal of the applicant to meet federal requirements, the receiving agency, in its sole discretion and determination, may refuse the grant applied for under this act. Every grant made pursuant to this act for any project for which federal funds are available shall be conditional upon approval of the applicant's request for federal funds.

Sec. 18. Annual reports to Advisory Budget Commission. The Department of Administration, the State Treasurer, the Division of Health Services, and the Environmental Management Commission shall prepare and file on or before July 31 of each year with the Advisory Budget Commission a consolidated report for the preceding fiscal year concerning the sale and allocation of the proceeds of sale of the bonds authorized by this act.

(a) Department of Administration. The portion of the report prepared by the Department of Administration shall set forth for the preceding fiscal year itemized and total allocations from the Contingency Account for grants and administrative expenses; itemized and total allocations from the Pollution Control Account of grants authorized by the Environmental Management Commission; and itemized and total allocations from the Water Supply Systems Account of grants authorized by the Division of Health Services. The Department of Administration shall also prepare a summary report of all bond funds received by and all allocations made from the Clean Water Fund for each fiscal year, the total funds received and allocations made, and unallocated funds on hand in each account as of the end of the preceding fiscal year.

(b) State Treasurer. The portion of the report prepared by the State Treasurer shall set forth the funds realized from the proceeds of sales of bonds or issuance of bond anticipation notes authorized by this act during the preceding fiscal year; the costs and expenses of such sales, or issuance; the total funds realized from the proceeds of sales of bonds or issuance of bond anticipation notes for all preceding fiscal years and the total costs and expenses of such sales or issuances; and the total amount of the bonds authorized but unissued.

(c) Environmental Management Commission and Division of Health Services. The portions of the report prepared by the Environmental Management Commission and the Division of Health Services:

(1) Shall identify each grant made by the receiving agency during the preceding fiscal year; the total amount of the grant commitments; the sums actually paid during the preceding fiscal year to each grant made and to each grant previously committed but unpaid; and the total grant funds paid during the preceding fiscal year.

(2) Shall itemize the expenditure of any administrative expense funds allocated from the Contingency Account during the preceding fiscal year.

(3) Shall contain a summary for all preceding fiscal years of the total number of grants made; the total funds committed to such grants; the total sum actually paid to such grants; and the total expenditure of administrative expense funds allocated from the Contingency Account.

(4) Shall contain an assessment and evaluation of the effects that approved projects have had upon water pollution control and water supplies within the purposes of this act and with relation to the total water pollution control and water supply problem.

(d) Signatures. The report shall be signed by each of the chief executive officers of the State agencies preparing the report.

Sec. 19. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 20. During the 1977-79 biennium the State Treasurer shall sell no bonds pursuant to this act which will require debt service payments during the 1977-79 biennium unless there are sufficient funds to pay such debt service payments in the State Treasurer's debt service appropriation for the 1977-79 biennium.

Sec. 21. Effective date. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 1266 CHAPTER 678

AN ACT TO PROVIDE THAT ALL SESSIONS OF SUPERIOR AND DISTRICT COURT OF BRUNSWICK COUNTY SHALL BE HELD IN THE NEW COUNTY SEAT OF BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 324, Session Laws of 1975, is amended by adding after Section 4 thereof the following:

"Sec. 4.1. All sessions of the superior and district courts shall be held in the new county seat of Brunswick County when the courthouse is completed and ready for occupancy. The board of county commissioners shall adopt an ordinance designating the date the sessions of court shall begin in the new county seat and shall publish said ordinance once a week for four weeks prior to such date in a newspaper having general circulation in the county."

Sec. 2. G.S. 7A-133 is amended by striking from the column headed "Additional Seats of Court" the word "Shallotte". It is the intent of this section to authorize that the new county seat of Brunswick County shall be the sole seat of court for the superior and district courts of Brunswick County.

Sec. 3. Whereas, the Old Waynesboro Commission is a nonprofit corporation organized under the laws of the State of North Carolina for the purpose of restoring the site of the former Town of Waynesboro, located on the banks of the Neuse River just to the Southwest of the City of Goldsboro, which town gave Goldsboro the Court Seat as well as many of its early homes and citizens, and in connection with such restoration promote and provide historical and recreational facilities that would be of great value to the citizens of Goldsboro, Wayne County and the surrounding area; and

Whereas, in order to carry out such program it is necessary that the commission acquire approximately 24 acres of land along the banks of the Neuse River and belonging to the City of Goldsboro; and

Whereas, the City of Goldsboro is the owner of a tract of land consisting of some 24 acres which had previously been used as a landfill site and which is now surplus property and which many years ago was the original site of a portion of Old Waynesboro; and

Whereas, the Board of Aldermen of the City of Goldsboro has, after due study and deliberation found and determined that the said 24 acres of land is no longer required or needed for any municipal purpose, and is surplus city property; and

Whereas, the Board of Aldermen of the City of Goldsboro is of the opinion and has determined that the best interest of the City of Goldsboro and its citizens will be served by conveying said 24 acres of land, without consideration, to the Old Waynesboro Commission in order to assist this nonprofit corporation in instituting and carrying on its historic preservation and recreational program with its resultant benefits to the citizens of Goldsboro, Wayne County and surrounding area; and

Whereas, in order to convey this 24 acres to the Old Waynesboro Commission, without consideration, the City of Goldsboro must have the authorization of the 1977 Legislature; Now, therefore, The Board of Aldermen of the City of Goldsboro is hereby authorized to convey, without monetary consideration, to the Old Waynesboro Commission that certain tract or parcel of land situated in or near the City of Goldsboro, North Carolina, Wayne County, and more particularly described as follows:

"Situated in the Township of Goldsboro, County of Wayne, and State of North Carolina, and known as being a portion of that land now owned by the City of Goldsboro at the western terminus of Old Waynesboro Road, adjoining Paul E. Murray, near the Neuse River and being more particularly described as follows: Commencing for boundary at a point in the centerline of Old Waynesboro Road (60 feet wide), the southwest corner of a tract of land now owned by Paul E. Murray, tract number 1, Volume 735, page 44, said point being referenced by a concrete monument set north 42° 22' 48" west 30.00 feet (9.144m) on the westerly right-of-way of said road, said point being further defined as having North Carolina Grid Coordinates; north 592,116.54, east 2,293,258.88; thence north 47° 35' 15" east 145.34 feet (44.300m), along the centerline of Old Waynesboro Road, to a point; thence south 06° 16' 32" east 300.56 feet (91.611m), along a line 25 feet west of and parallel with the centerline of a ditch flowing toward Big Ditch, passing through a reference iron pin set at 37.15 feet on the easterly right-of-way of said Old Waynesboro Road, to an iron pin set; thence south 18° 32' 41" west 163.02 feet (49.688m), parallel with said ditch, to an iron pin set; thence south 05° 51' 37" west 318.06 feet (96.945m), parallel with said ditch, to an iron pin set; thence south 34° 47' 23" east 40.43 feet (12.323m), parallel with said ditch, to an iron pin set; thence south 37° 35' 53" west 227.51 feet (69.345m) a portion of this line being 25 feet west of a ditch flowing toward Neuse River, said ditch being the westerly line of lands now owned by the City of Goldsboro, Volume 912, page 767, to an iron pin set; thence north 62° 29' 07" west 62.48 feet (19.044m), parallel with said ditch, to an iron pin set; thence south 51° 23' 00" west 80.64 feet (24.579m). parallel with said ditch, to an iron pin set; thence south 60° 07' 05" west 148.41 feet (45.235m), parallel with said ditch, to an iron pin set on the east line of a 32.14 acre parcel of land owned by the Old Waynesboro Commission, Volume 828, page 222; thence north 03° 42' 05" east 705.99 feet (215.186m), along the east line of said 32.14 acre parcel of land, to an iron pin set; thence north 41° 56' 55" west 480.00 feet (146.304m), along a line of said 32.14 acre parcel. to an iron pin set; thence south 85° 59' 05" west 1,019.00 feet (310.591m), along the north line of said 32.14 acre parcel, to an iron pin set on the top of bank of the Neuse

River; thence north 02° 48' 57" west 193.42 feet (58.954m), along said bank, to an existing iron pin; thence north 00° 25' 32" west 56.19 feet (17.127m), along said bank to an iron pin set; thence north 57° 27' 16" east 518.02 feet (157.892m), along a line 25 feet southerly and parallel with the centerline of a ditch flowing to Neuse River, to an iron pin set; thence north 60° 59' 38" east 168.12 feet (51.243m), parallel with said ditch, to an iron pin set; thence north 82° 08' 25" east 125.95 feet (38.390m), parallel with said ditch, to an iron pin set; thence south 85° 28' 42" east 140.05 feet (42.687m), parallel with said ditch, to an iron pin set; thence north 46° 53' 14" east 140.37 feet (42.785m), parallel with said ditch, to an iron pin set on the southwesterly line of a 6.5 acre parcel of land owned by Paul E. Murray, said iron pin being referenced by an existing concrete monument found north 42° 22' 48" west 19.00 feet (5.791m); thence south 42° 22' 48" east 976.44 feet (297.619m), along the southwesterly line of said Murray property to the place of beginning of the parcel herein described, containing 23.912 acres (9.6769 hectares), subject to two (2) 20 feet wide utility easements centered on existing sanitary sewer pipelines and also a 60 feet wide access and utility easement of an extension of the Old Waynesboro Road as shown on a plat entitled "Property to be Conveyed to the Old Waynesboro Commission by the City of Goldsboro", dated March 4, 1977, as prepared by Olsen Associates, Inc., Engineers-Architects-Surveyors, Raleigh, North Carolina."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1487 CHAPTER 679

AN ACT TO AMEND PART 4 OF ARTICLE 3 OF CHAPTER 143B OF THE GENERAL STATUTES TO REORGANIZE THE COMMISSION FOR MENTAL HEALTH SERVICES TO INCLUDE ADEQUATE REPRESENTATION FOR MENTALLY RETARDED CITIZENS.

Whereas, the Secretary of Human Resources has determined that the creation of a separate Division of Mental Retardation would represent a duplication of administrative overhead costs; and

Whereas, creation of a separate Division of Mental Retardation would be violative of the intent of State government to reduce the number of separate agencies, boards and commissions; and

Whereas, however, the Secretary of Human Resources has determined that there is a need for increased visibility, budget support and representation for the mental retardation programs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-147 is hereby rewritten to read as follows:

"§ 143B-147. *Commission for Mental Health and Mental Retardation Services; creation, powers and duties.*—(a) There is hereby created the Commission for Mental Health and Mental Retardation Services of the Department of Human Resources with the power and duty to adopt, amend and rescind rules and regulations to be followed in the conduct of State and local mental health, mental retardation and alcohol and drug treatment programs, in order to promote the amelioration or elimination of the mental health, mental retardation, or alcohol and drug abuse problems of the citizens of this State;

however, such rules and regulations shall not be inconsistent with the provisions of this Article or other State laws. Specifically:

(1) The Commission for Mental Health and Mental Retardation Services is authorized and empowered to adopt such rules and regulations that may be necessary and desirable for the treatment programs administered by the Department of Human Resources as provided in Chapter 122 of the General Statutes of North Carolina for the mentally retarded, mentally ill and inebriate, not inconsistent with the management responsibilities of the Secretary of Human Resources provided by Chapter 143B of the General Statutes of North Carolina and the Executive Organization Act of 1973.

(2) The Commission for Mental Health and Mental Retardation Services shall have the power and duty to establish standards and adopt rules and regulations:

a. for the professional care of persons admitted to institutions, centers, or hospitals established in accordance with Chapter 122, including the authority to establish rules and regulations not contrary to law governing the admission of persons to any State institution, center or hospital under its jurisdiction which is now or may hereafter be established;

b. for establishing minimum standards for local community alcoholism programs as a condition for participation in State grants-in-aid authorized by G.S. 122-7.1(b);

c. for the establishment and operation of area mental health authorities as prescribed in Article 2F of Chapter 122 of the General Statutes;

d. for the inspection and licensing of private hospitals for the mentally disordered as provided by G.S. 122-72;

e. for the licensing of all area or community mental health facilities of whatsoever nature, pursuant to Article 2F of Chapter 122 of the General Statutes.

(3) The commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mental health or mental retardation or alcohol abuse programs which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(4) The commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Board of Mental Health or the Commission for Mental Health Services shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health and Mental Retardation Services.

(b) All rules and regulations adopted by the commission shall be enforced by the Department of Human Resources."

Sec. 2. G.S. 143B-148 is hereby rewritten to read as follows:

"§ 143B-148. *Commission for Mental Health and Mental Retardation Services; members; selection; quorum; compensation.*—(a) The Commission for Mental Health and Mental Retardation Services of the Department of Human

Resources shall consist of 15 members, two of whom shall be members of the General Assembly, with concern for the problems of mental illness, mental retardation, and alcohol and drug abuse, and 13 of whom shall be citizens appointed by the Governor. Of the two members from the General Assembly, one shall be appointed by the Speaker of the House of Representatives and one shall be appointed by the President of the Senate, each to serve two-year terms commencing on July 1 of each odd-numbered year. The commission membership shall include the following persons appointed by the Governor:

(1) two citizens who are either a parent or guardian of a mentally retarded citizen;

(2) one mental retardation professional as defined in G.S. 122-36(i);

(3) two citizens who are concerned with the problems in the field of mental health care for the mentally ill;

(4) one mental health professional as defined in G.S. 122-36(h);

(5) two citizens who represent State or local citizen organizations which are concerned with the problems of alcohol or drug abusers;

(6) one professional in the field of drug or alcohol abuse, including, but not limited to professional social workers, registered nurses, medical doctors, and psychologists; and

(7) any four citizens who, in the Governor's sound discretion, would be an asset to the Commission for Mental Health and Mental Retardation Services in carrying out its duties.

At least one of the Governor's appointees shall be an attorney licensed to practice law in the State and one a medical doctor licensed to practice medicine in the State.

The Governor shall select his 13 appointees to insure that all sections of the State have representation on the commission. Notwithstanding the provisions of G.S. 143B-13(a) relating to existing commission members, the Governor shall appoint members to the commission in accordance with the foregoing membership requirements. At the initial formation of the Commission for Mental Health and Mental Retardation Services, the Governor shall designate four of his appointees to serve for two years, four to serve three years, five to serve four years, all terms to commence on July 1, 1977. Thereafter the term of all commission members appointed by the Governor shall be four years. All commission members shall serve their designated term and until their successors are duly appointed and qualified.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 relating to appointment, qualifications, terms, and removal of members shall apply to all members of the Commission for Mental Health and Mental Retardation Services. G.S. 143B-13(c) shall not apply to commission members who are also members of the General Assembly.

(c) Commission members who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1(b) and (c). Commission members who are employees of the State shall receive travel allowances at the rates set forth in G.S. 138-6. All other commission members shall receive per diem compensation and travel expenses at the rate set forth in G.S. 138-5.

(d) A majority of the commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the commission shall be supplied by the Secretary of Human Resources."

Sec. 3. G.S. 143B-149 is hereby rewritten to read as follows:

"§ 143B-149. *Commission for Mental Health and Mental Retardation Services; officers.*—The Commission for Mental Health and Mental Retardation Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the commission and shall serve for a term of two years or until the expiration of his regularly appointed term."

Sec. 4. G.S. 143B-150 is hereby rewritten to read as follows:

"§ 143B-150. *Commission for Mental Health and Mental Retardation Services; regular and special meetings.* The Commission for Mental Health and Mental Retardation Services shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least eight members."

Sec. 5. G.S. 143B-140, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by striking the phrase "Commission for Mental Health Services" on line 4 of that section and by substituting the phrase "Commission for Mental Health and Mental Retardation Services" therefor.

Sec. 6. G.S. 143B-140, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by striking the phrase "Division of Mental Health Services" on line 17 of that section and by substituting the phrase "Division of Mental Health and Mental Retardation Services" therefor.

Sec. 7. Whenever the words "Commission for Mental Health Services" or "Commission", which by its context refers to the "Commission for Mental Health Services", are used or appear in any statute or law of this State, they shall be deleted and the words "Commission for Mental Health and Mental Retardation Services" shall be substituted therefor if appropriate to the context. Such change will be made in, including, but not limited to, the following areas of the General Statutes: G.S. 122-1.2, line 5; G.S. 122-3, line 1; G.S. 122-4, lines 1 and 2; G.S. 122-7.1 as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 4 and 5; G.S. 122-7.2, lines 7 and 8; G.S. 122-12, lines 1 and 2; G.S. 122-13, line 1; G.S. 122-16.1(a), lines 11 and 12; G.S. 122-16.1(b), lines 1 and 2; G.S. 122-16.1(d), line 1; G.S. 122-35.6, line 3 of paragraph 3; G.S. 122-35.18(1), lines 2 and 3; G.S. 122-35.19, line 1; G.S. 122-35.20(e) as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 1 and 10; G.S. 122-35.21, line 8; G.S. 122-35.26, lines 5, 7, and 15; G.S. 122-35.33 as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 4, 7, and 11; G.S. 122-35.34 as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 5, 6, and 8; G.S. 122-39, line 17; G.S. 122-69, lines 9 and 13; G.S. 122-70, line 5; G.S. 122-72(b), line 6; G.S. 122-72(c), line 14; G.S. 122-72(d), line 6; G.S. 122-72(e), line 4 and G.S. 122-83 as the same appear in the 1975 Cumulative Supplement to Volume 3B, line 7; and at all appropriate places in Article 2F of Chapter 122.

Sec. 8. Whenever the words "Division of Mental Health Services" or "Division", which by its context refers to the "Division of Mental Health Services", are used or appear in any statute or law of this State, they shall be

deleted and the words "Division of Mental Health and Mental Retardation Services" shall be substituted therefor if appropriate to the context. Such change will be made in, including, but not limited to, the following areas of the General Statutes: G.S. 122-58.4(c) as the same appears in the 1975 Cumulative Supplement to Volume 3B, line 15; G.S. 122-58.16 as the same appears in the 1975 Cumulative Supplement to Volume 3B, line 2; G.S. 122-84.1 as the same appears in the 1975 Cumulative Supplement to Volume 3B, line 14, and G.S. 122-85 as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 13 and 14.

Sec. 9. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. B. 1519 CHAPTER 680

AN ACT TO AMEND CHAPTER 469 OF THE 1977 SESSION LAWS TO MAKE A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-227, as the same appears in Chapter 469 of the 1977 Session Laws of North Carolina, is amended by striking out of the second paragraph of subparagraph (3) of subsection (b) the words and figures "10:00 a.m." and by inserting in lieu thereof the words and figures "12:00 noon."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 17 CHAPTER 681

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES.

The General Assembly of North Carolina enacts:

——TITLE/PURPOSES

Section 1. This act shall be known as "The Capital Improvement Appropriations Act of 1977".

Sec. 2. The appropriations made by this act are for constructing or renovating State buildings, utilities, and other capital facilities; acquiring sites therefor where necessary; and acquiring buildings and land for State government purposes.

——PROCEDURES FOR DISBURSEMENTS

Sec. 3. The appropriations made by Sections 4 and 5 of this act shall be disbursed for the purposes provided by this act upon warrants drawn by the State Disbursing Officer, which warrants shall not be drawn for any State department, institution, or agency until an allotment has been approved by the Director of the Budget, and which allotment shall be approved only after full compliance with the Executive Budget Act, Article I, Chapter 143, of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Governor and the Advisory Budget Commission shall approve the elements of the method of financing of such projects including the source of funds, interest rate, and liquidation period.

Where direct appropriations are provided in this act for the purpose of furnishing movable equipment for any project, such funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget.

Projects listed in this act shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in the act.

——GENERAL FUND APPROPRIATIONS/SCHEDULE OF CAPITAL IMPROVEMENTS

Sec. 4. There is appropriated out of the General Fund the sum of thirty million three hundred thirty-nine thousand six hundred twenty-six dollars ($30,339,626) effective July 1, 1977, and thirty-one million nine hundred eighty thousand dollars ($31,980,000) effective July 1, 1978, for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements—General Fund	1977-78	1978-79
GENERAL ASSEMBLY (TOTAL)	$ 50,000	$
01. Renovation of Elevators	50,000	
DEPARTMENT OF ADMINISTRATION (TOTAL)	1,353,000	850,000
01. Completion of Capitol Restoration	55,000	
02. Completion of Governor's Mansion Renovation	100,000	
03. Repairs and Alterations to State Buildings in the State Government Center	100,000	100,000
04. Greenhouse - General Services	6,000	
05. Renovation of Old Health Building	122,000	
06. Two new elevators for Justice Building		100,000
07. Architectural Barrier Removal - State Government Center	120,000	
08. Land Acquisition - State Government Center	100,000	150,000
09. Parking Deck-State Government Center	2,000,000	
Less receipts - Self-liquidating	2,000,000	
General Fund	-0-	
10. Reserve for Advance Planning of Capital Projects	250,000	
11. Land Acquisition - State Parks	1,000,000	1,000,000

Less receipts - Federal BOR	500,000	500,000
General Fund	500,000	500,000
DEPARTMENT OF AGRICULTURE (TOTAL)	1,375,000	450,000
01. Western Farmers Market	10,000	
02. Farm shops, office, and equipment shed - Umstead Farm	75,000	
03. Renovation of Three Laying Houses	100,000	
04. Bulk Tobacco Curing and Handling Facilities - Border Belt Research Station	40,000	
05. Reserve for capital construction - Western Farmers Market	500,000	
06. Reserve for repairs to Dorton Arena	200,000	450,000
07. Reroof wholesale sheds - Raleigh Farmers Market	225,000	
08. Reserve for Cherokee Farmers Market	200,000	
09. Reserve for Handicrafts Museum - Haywood Technical Institute	25,000	
BOARD OF GOVERNORS - THE UNIVERSITY OF NORTH CAROLINA (TOTAL)	9,540,000	
01. Bed Tower for East Carolina University Medical School Complex	3,820,000	
02. OSHA Compliance Architectural Barrier Removal; Renovation and construction of Capital Facilities	3,000,000	
03. Utilities and Site Improvements at Memorial Hospital	720,000	
04. Reserve for capital construction - NCSU Veterinary School	2,000,000	
COMMUNITY COLLEGES (TOTAL)	1,000,000	1,000,000
01. Reserve for capital construction	1,222,932	1,222,932
Less receipts - Federal Funds	222,932	222,932
General Fund	1,000,000	1,000,000
DEPARTMENT OF CORRECTION (TOTAL)	4,750,000	24,900,000
01. Replacement of Central Prison - Phase I	850,000	16,150,000
02. Reserve for Repairs and		

Renovations at Existing Facilities	1,000,000	
03. Reserve for Prison Construction	2,900,000	8,750,000
DEPARTMENT OF JUSTICE (TOTAL)	456,376	
01. Renovation funds for the SBI facilities at Garner Road campus	456,376	
DEPARTMENT OF CULTURAL RESOURCES (TOTAL)	200,000	200,000
01. Reserve for Capital Improvements at Historic Sites	200,000	200,000
DEPARTMENT OF HUMAN RESOURCES (TOTAL)	3,575,000	1,000,000
01. Reserve for Correction of Code Deficiencies	1,000,000	1,000,000
02. North Carolina School for the Deaf		
a. Upgrade Heating Controls and Repair Smokestack	230,000	
b. Resurface roads	100,000	
03. Eastern North Carolina School for the Deaf		
a. Resurface road	65,000	
04. Governor Morehead School		
a. Reroofing	50,000	
b. Repair Gym Dressing Room	10,000	
c. Repipe Steam and Condensate Lines	75,000	
05. Eastern North Carolina Hospital		
a. Reroof Spruill Wing	28,000	
06. Cherry Hospital		
a. Renovate McFarland Building	495,000	
07. John Umstead Hospital		
a. Secondary clarifier for Sewage Disposal System	345,000	
08. Broughton Hospital		
a. Resurface roads	95,000	
09. Murdoch Center		
a. Boiler Insulation	85,000	
10. Reserve for Reroofing at Broughton, Dorothea Dix, and John Umstead Hospitals	250,000	
11. Reserve for Reroofing at Murdoch, O'Berry, and Western Carolina Centers	740,000	
12. Cumberland County		

Regional Detention Center—Fencing, Lighting	7,000	
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (TOTAL)	332,250	130,000
01. New Armory, Morganton	425,000	
Less receipts - Local Funds	53,125	
Less receipts - Federal Funds	318,750	
General Fund	53,125	
02. New Armory, Gastonia	559,000	
Less receipts - Local Funds	69,875	
Less receipts - Federal Funds	419,250	
General Fund	69,875	
03. New Armory, Reidsville/Eden		650,000
Less receipts - Local Funds		81,250
Less receipts - Federal Funds		487,500
General Fund		81,250
04. New Armory, Edenton		390,000
Less receipts - Local Funds		48,750
Less receipts - Federal Funds		292,500
General Fund		48,750
05. Armory Additions, Ahoskie	60,000	
Less receipts - Federal Funds	45,000	
General Fund	15,000	
06. Armory Addition, Asheville	90,000	
Less receipts - Federal Funds	67,500	
General Fund	22,500	
07. New Armory, Raeford	559,000	
Less receipts - Local Funds	69,875	
Less receipts - Federal Funds	419,250	
General Fund	69,875	
08. New Armory, Albemarle	425,000	
Less receipts - Local Funds	53,125	
Less receipts - Federal Funds	318,750	
General Fund	53,125	
09. New Armory, Scotland Neck	390,000	
Less receipts - Local Funds	48,750	
Less receipts - Federal Funds	292,500	
General Fund	48,750	
DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES (TOTAL)	5,420,000	2,750,000
01. Division of Environmental Management		
a. Reserve for Civil Works Projects		
(01) Reserve for civil works	320,000	750,000

(02) Reserve for Wanchese Harbor	500,000	500,000
(03) Watershed projects - Chicod Creek and Swift Creek	500,000	300,000
02. Division of Parks and Recreation		
a. Reserve for Capital Improvements at State Parks and Water-Based Recreation Areas	1,200,000	1,200,000
b. Continuation of Phase I Development - North Carolina Zoological Park	2,900,000	
DEPARTMENT OF COMMERCE (TOTAL)	2,288,000	700,000
01. State Ports Authority		
a. Reserve for capital construction	2,265,000	700,000
02. Division of Economic Development		
a. Reroof Science & Technology Building	23,000	
GRAND TOTAL - GENERAL FUND APPROPRIATION	$30,339,626	$31,980,000

——HIGHWAY FUND APPROPRIATIONS/SCHEDULE OF CAPITAL IMPROVEMENTS

Sec. 5. There is hereby appropriated out of the Highway Fund the sum of one million six hundred twenty-five thousand six hundred dollars ($1,625,600) effective July 1, 1977, and one million one hundred thousand six hundred dollars ($1,100,600) effective July 1, 1978, for the use of the Departments of Transportation and Crime Control and Public Safety to provide for capital improvement projects according to the following schedule:

Capital Improvements - Highway Fund	1977-78	1978-79
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (TOTAL)	$ 575,600	$ 300,600
01. Division of Highway Patrol		
a. Renovation to support housing services at the Governor Morehead School Garner Road campus	435,600	300,600
b. To move transmitters to Archdale Building	35,000	
c. Communications center for Troop G - Asheville	105,000	
DEPARTMENT OF TRANSPORTATION (TOTAL)	1,050,000	800,000
01. Division of Highways		
a. Reserve for Capital Improvement Projects	200,000	300,000
b. Reserve for renovation at		

Marine Repair Facility	500,000	500,000
02. General Administration		
a. Renovation of space to house a consolidated computer operation	350,000	
GRAND TOTAL - HIGHWAY FUND APPROPRIATION	$ 1,625,600	$ 1,100,600

——FEDERAL REVENUE SHARING/CAPITAL APPROPRIATION

Sec. 5.5. To the end of providing maximum flexibility for the expenditure of appropriations consistent with federal regulations governing expenditure of general shared federal revenue, the items below, which are elements of 1977-79 Capital Improvement Appropriations to the indicated departments as enumerated in Section 4 of this act, are to be financed from the General Revenue Sharing Trust Fund of the State:

Capital Improvements	1977-78	1978-79
Administration		
01. Completion of Capitol Restoration	55,000	
02. Completion of Mansion Restoration	100,000	
03. Old Health Building Renovation	122,000	
04. Elevators - Justice Building		100,000
05. Land Acquisition - Government Center	100,000	150,000
06. Land Acquisition - State Parks	500,000	500,000
07. Access for Handicapped	120,000	———
Sub-Total	997,000	750,000
Agriculture		
01. Western Farmers Market	510,000	
02. Cherokee Farmers Market	200,000	
03. Farm Shop - Umstead	75,000	
04. Bulk Tobacco Barns	40,000	
05. Poultry Laying Houses	100,000	
06. Repairs to Dorton Arena	200,000	450,000
07. Repairs to Farmers Market	225,000	
08. Handicraft Museum	25,000	———
Sub-Total	1,375,000	450,000
Board of Governors		
01. Renovations, Maintenance & Utility Projects, OSHA, & Architectural Barrier Removal	3,000,000	
02. Memorial Hospital - Utility & Site Improvements	720,000	
03. Reserve for Vet School	2,000,000	
04. East Carolina University - Bed Tower	3,820,000	———
Sub-Total	9,540,000	-0-
Correction		
01. Central Prison Replacement, Phase I	850,000	16,150,000
02. New Single Cell Construction	2,900,000	8,750,000
Sub-Total	3,750,000	24,900,000
Cultural Resources		

01. Capital Reserve for Historic Sites	200,000	200,000
Sub-Total	200,000	200,000
Crime Control & Public Safety		
01. Armories	332,250	130,000
Sub-Total	332,250	130,000
Commerce		
01. Reserve for State Ports	2,265,000	700,000
Sub-Total	2,265,000	700,000
Human Resources		
01. Code Deficiencies Reserve	1,000,000	1,000,000
02. Reroofing, Mental Hospitals	250,000	
03. Reroofing, Mental Retardation Centers	740,000	
04. Road Repair, Broughton	95,000	
05. Sewage System, Butner	345,000	
06. Boiler Insulation, Murdoch	85,000	
07. McFarland Building Renovation-Cherry	495,000	
08. Heating Controls-N. C. School for Deaf	230,000	
09. Road Repair-Eastern School for Deaf	65,000	
10. Reroofing-Eastern North Carolina Hospital	28,000	
11. Road Repair-N. C. School for Deaf	100,000	
12. Reroofing-Governor Morehead	50,000	
13. Repair Gym Dressing Room-Governor Morehead	10,000	
14. Repipe Steam Lines-Governor Morehead	75,000	
Sub-Total	3,568,000	1,000,000
Justice		
01. Renovation of Garner Road Facility	456,376	
Sub-Total	456,376	-0-
Natural Resources & Community Development		
01. State Parks Capital Reserve	1,200,000	1,200,000
02. Reserve for Zoo	2,900,000	
Sub-Total	4,100,000	1,200,000
GRAND TOTAL - REV. SHAR./CAPITAL	$26,583,626	$29,330,000

——ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Sec. 6. When each project appropriated in Section 4 of this act, other than those projects under the Department of Community Colleges and The University of North Carolina Board of Governors, is placed under construction contract, direct appropriations therefor shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Department of Administration. Use of this project reserve fund shall be at the discretion of the Director of the Budget solely to allow for award of contracts where bids exceed appropriated funds, on condition that such projects supplemented shall have been designed within the physical scope intended by the applicable appropriation or any authorized change therein, and in the opinion of the Director of the Budget all means to award contracts within the

appropriation shall have been reasonably attempted. The project reserve fund shall not be used in connection with any projects under The University of North Carolina Board of Governors or the Department of Community Colleges. At the discretion of the Governor and the Advisory Budget Commission any balances in the project reserve fund shall revert to the original source.

——UNC BOARD OF GOVERNORS AND OTHER LUMP SUM APPROPRIATIONS

Sec. 7. There is appropriated in Section 4 of this act a lump sum to The University of North Carolina Board of Governors. Expenditure of funds in this appropriation shall be in accordance with the provisions of G.S. 116-11(9)a and G.S. 116-11(9)b, and this act, except where specifically excluded. Other lump sums appropriated in Sections 4 or 5 of this act shall be used for specific capital improvement projects in accordance with the priority needs of the respective agencies and as approved by the Governor and the Advisory Budget Commission, and any funds remaining in a project account following encumbrance of all construction and equipment costs and reasonable contingency shall revert to the respective reserve.

——GOVERNOR AND ABC/POSTPONEMENT OF PROJECTS

Sec. 8. Upon the request of a department, institution, or agency for which a capital improvement appropriation is made in this act, the Governor and the Advisory Budget Commission are authorized and empowered to postpone any capital improvement project as provided in this act upon finding that the project cannot be carried out as originally intended by the General Assembly.

——ADVISORY BUDGET COMMISSION/APPROPRIATION MODIFICATIONS

Sec. 9. The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of the pertinent department, agency, or institution, authorize an increase or decrease in size and scope of a direct or self-liquidating capital appropriation. Changes to a project or projects enumerated in this act may come from gifts, grants, federal receipts other than patient receipts, special fund receipts, or, from within the funds appropriated in this act to that department, agency, or institution.

——GOVERNOR AND ADVISORY BUDGET COMMISSION/NEW PROJECTS

Sec. 10. The Governor and the Advisory Budget Commission may, when in their opinion it is in the best interest of the State to do so, and upon the request of a department, institution, or agency, authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly. Funds which become available by gifts, grants, federal receipts other than patient receipts or receipts becoming a part of special funds by act of the General Assembly may be used for this purpose. No funds appropriated under this act for a specific capital improvement shall be used or expended for any capital improvement not specifically provided for or authorized by the General Assembly.

——RECREATIONAL LAND ADVANCES/REIMBURSEMENT

Sec. 11. The Director of the Budget is authorized and empowered to advance, from the land-purchase appropriations made in this act, funds necessary for purchase of recreational land for which there is either no specific

appropriation or only a partial appropriation, when reimbursement of such advances will be later effected by assured gifts or grants.

——COMMUNITY COLLEGES/MOVABLE EQUIPMENT

Sec. 12. No construction contracts for capital improvements within the Department of Community Colleges shall be let until it has been clearly established that funds are available for related movable equipment.

——ADVANCE PLANNING RESERVE/DEPARTMENT OF ADMINISTRATION

Sec. 13. There is appropriated in Section 4 of this act to the Department of Administration the sum of two hundred fifty thousand dollars ($250,000) in fiscal year 1977-78 as a reserve for the advance planning of capital projects and the preparation of program cost estimates on high priority capital projects. This reserve may be used as requested by a department and as approved by the Governor and the Advisory Budget Commission.

Advance planning shall be generally limited to the schematic design phase and in no case shall advance design proceed beyond the design development phase.

This reserve shall not be utilized in connection with projects under the Board of Governors of The University of North Carolina or the Department of Community Colleges.

All amounts provided from the reserve shall be repaid to the reserve at such time as final design and construction monies become available.

Sec. 14. (deleted)

——APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Sec. 15. Subject to any transfers and changes between appropriations as permitted in previous sections of this act, the appropriations for capital improvements made in this act shall be expended only for specific projects set out. Construction of all capital improvement projects enumerated in this act shall be commenced or self-liquidating indebtedness with respect thereto shall be incurred within 18 months following the first day of the fiscal year in which the funds are available. If construction contracts on such project or projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for such project or projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in the project reserve fund; provided, however, that this deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Governor and the Advisory Budget Commission when, in their discretion, existing circumstances and conditions warrant such extension.

——EFFECTIVE DATE

Sec. 16. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 237

CHAPTER 682

AN ACT TO PROMOTE AND PROVIDE FOR COMMUNITY INVOLVEMENT IN AND USE OF THE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the General Statutes is amended by adding a new Article within Subchapter II to be designated Article 7A and to read as follows:

"ARTICLE 7A.

"Community Schools Act.

"§ 115-73.1. *Title of Article.*—This Article shall be known and may be cited as the 'Community Schools Act'.

"§ 115-73.2. *Purpose of Article.*—The purpose of this Article is to encourage greater community involvement in the public schools and greater community use of public school facilities. To this end it is declared to be the policy of this State:

(1) to provide for increased involvement by citizens in their local schools through community schools advisory councils, and

(2) to assure maximum use of public school facilities by the citizens of each community in this State.

It is further declared to be the policy of this State that, to the extent sufficient funds are made available, each local board of education shall comply with the provisions of this Article.

"§ 115-73.3. *Definitions.*—As used in this Article:

(1) The terms 'public school facility' or 'public school facilities' mean any education facility under the jurisdiction of a local board of education, whether termed an elementary school, middle school, junior high school or high school.

(2) The term 'community schools advisory council' means a committee of citizens organized to advise community school coordinators, administrators, and local boards of education in the involvement of citizens in the educational process and in the use of public school facilities.

(3) The term 'community schools coordinator' means an employee of a local board of education whose responsibility it is to promote and direct maximum use of the public schools and public school facilities as centers for community development.

(4) The term 'interagency council' means a committee of agency and organizational representatives appointed by the Governor to work with the State Superintendent of Public Instruction concerning the involvement of statewide agencies and organizations with the public schools.

"§ 115-73.4. *State Board of Education; duties, responsibilities.*—The State Superintendent of Public Instruction shall prepare and present to the State Board of Education recommendations for general guidelines for encouraging increased community involvement in the public schools and use of public school facilities. The State Superintendent of Public Instruction shall consult with the interagency council in preparing the general guidelines. These recommendations shall include, but shall not be limited to provisions for:

(1) the use of public school facilities by governmental, charitable or civic organizations for activities within the community;

(2) the utilization of the talents and abilities of volunteers within the community for the enhancement of public school programs including tutoring, counseling and cultural programs and projects; and

(3) increased communications between the staff and faculty of the public schools, other community institutions and agencies, and citizens in the community.

Based on the recommendations of the Superintendent of Public Instruction, the State Board of Education shall adopt appropriate policies and guidelines for encouraging (1) increased community involvement in the public schools; and (2) use of the public school facilities.

The State Board of Education shall establish rules and regulations governing the submission and approval of programs prepared by local boards of education for encouraging increased community involvement in the public schools and use of public school facilities.

The State Board of Education is authorized to allocate funds to the local boards of education for the employment of community schools coordinators and for other appropriate expenses upon approval of a program submitted by a local board of education and subject to the availability of funds. In the event that a local board of education already has sufficient personnel employed performing functions similar to those of a community schools coordinator, the State Board of Education may allocate funds to that local board of education for other purposes consistent with this Article. Funds allocated to a local board of education shall not initially exceed three fourths of the total budget approved in the community schools program submitted by a local board of education.

"§ 115-73.5. *Authority and responsibility of local boards of education.*—Every local board of education which elects to apply for funding pursuant to this Article shall:

(1) develop programs and plans for increased community involvement in the public schools based upon policies and guidelines adopted by the State Board of Education;

(2) develop programs and plans for increased community use of public school facilities based upon policies and guidelines adopted by the State Board of Education;

(3) establish rules governing the implementation of such programs and plans in its public schools and submit these rules along with adopted programs and plans to the State Board of Education for approval by the State Board of Education.

Programs and plans developed by a local board of education shall provide for the establishment of one or more community schools advisory councils for the public schools under the board's jurisdiction and for the employment of one or more community schools coordinators. The local board of education shall establish the terms and conditions of employment for the community schools coordinators.

Every local board of education which elects to apply for funding pursuant to this Article shall have the authority to enter into agreements with other local boards of education, agencies and institutions for the joint development of plans and programs and the joint expenditure of funds allocated by the State Board of Education. Local funds from every local board of education applying for funds for the community schools program must equal one fourth of the total budget for the community schools program of said local board of education.

"§ 115-73.6. *Community schools advisory councils; duties; responsibilities; membership.*—Every participating local board of education shall establish one or more community schools advisory councils which may become involved in matters affecting the educational process in accordance with rules established by the local board of education and approved by the State Board of Education and further shall consider ways of increasing community involvement in the public schools and utilization of public school facilities. Community schools advisory councils may assist local boards of education in the development and preparation of the plans and programs to achieve such goals, may assist in the implementation of such plans and programs and may provide such other assistance as may be requested by the local boards of education.

Community schools advisory councils shall work with local school officials and personnel, parent-teacher organizations, and community groups and agencies in providing maximum opportunities for public schools to serve the communities, and shall encourage the maximum use of volunteers in the public schools.

At least one half of the members of each community schools advisory council shall be the parents of students in the particular public school system provided when less than twenty-five (25%) of the pupils attending a particular school reside outside the immediate community of the school, such persons shall be parents of students in the particular school for which the advisory council is established. The size of the councils and the terms of membership on the councils shall be determined by the local board of education in accordance with the State guidelines.

"§ 115-73.7. *Community schools coordinators.*—Every participating local board of education shall employ one or more community schools coordinators and shall establish the terms and conditions of their employment. Community schools coordinators shall be responsible for:

(1) providing support to the community schools advisory councils and public school officials;

(2) fostering cooperation between the local board of education and appropriate community agencies;

(3) encouraging maximum use of community volunteers in the public schools; and

(4) performing such other duties as may be assigned by the local superintendent and the local board of education, consistent with the purposes of this Article."

Sec. 2. This program and the provisions of this act shall be implemented to the extent appropriations are provided by the General Assembly and funds are made available by local government, but nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Public Education. No more than five percent (5%) of the total allocation shall be used for State leadership within the State Department of Public Instruction.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 486 **CHAPTER 683**

AN ACT TO INCREASE PUBLIC SECTOR REPRESENTATION ON THE MINE SAFETY AND HEALTH ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-24.6(a), as it appears in the 1975 Cumulative Supplement of Volume 2C of the General Statutes of North Carolina, is hereby rewritten to read as follows:

"§ 74-24.6. *Advisory council.*—(a) The commissioner shall appoint an advisory council consisting of 11 members to assist him in the development of safety and health standards for mines which are subject to this Article and to advise him on matters relating to safety and health in such mines. Said advisory council shall include three members expressly qualified by experience and affiliation to present the viewpoint of operators of such mines, three persons similarly qualified to present the viewpoint of workers in such mines, and five members of the public sector with knowledge of mining operations or associated health and safety aspects thereof. The Commissioner of Labor shall annually designate one member to act as chairman. The members of the advisory council shall serve at the pleasure of the commissioner and shall have no specific term of office."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Labor to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 610 **CHAPTER 684**

AN ACT TO AMEND G.S. 53-117 CONCERNING THE APPOINTMENT BY THE COMMISSIONER OF BANKS OF STATE BANK EXAMINERS, ASSISTANT STATE BANK EXAMINERS, CLERKS AND STENOGRAPHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-117 is hereby amended by rewriting the first sentence to read as follows:

"The Commissioner of Banks, for the purpose of carrying out the provisions of this Chapter, shall appoint from time to time such State bank examiners, assistant State bank examiners, clerks and stenographers as may be necessary to make a thorough examination of the affairs of every bank doing business under this Chapter, as often as the Commissioner of Banks may deem necessary, and at least once each year, provided the Commissioner of Banks may extend this period to 18 months when, in his opinion, an emergency condition exists that necessitates such action."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 654

CHAPTER 685

AN ACT TO RECONSTITUTE THE AREA INMATE LABOR COMMISSIONS AND THE STATE INMATE LABOR COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-26.2(a) is hereby rewritten to read as follows:

"(a) The area inmate labor commissions are hereby reconstituted. Each reconstituted area commission shall have six members who shall be residents of the area, to be appointed by the Governor as follows: one representative of the League of Municipalities, one representative of the community colleges and technical institutes in the area, one representative of the Department of Correction designated by the Secretary of Correction and serving as an ex officio member, and three interested and knowledgeable citizens. The members of the commission shall serve for terms commencing upon their appointment and expiring July 1, 1981. Thereafter their successors shall be appointed for terms of four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on an area commission shall be for the remainder of the term of the member causing the vacancy. The Governor shall have the authority to remove any member of an area commission from office for misfeasance, malfeasance or nonfeasance."

Sec. 2. G.S. 148-26.3(a) is hereby rewritten to read as follows:

"(a) The State Inmate Labor Commission is hereby reconstituted and shall consist of 10 members as follows: the chairmen of the six area inmate labor commissions as provided in G.S. 148-26.2; one member of the North Carolina House of Representatives to be appointed by the Speaker of the House for a term of two years; one member of the North Carolina Senate to be appointed by the Lieutenant Governor for a term of two years; the Secretary of Correction or his designee to serve as an ex officio member; and a general chairman to be appointed by the Governor for a term commencing upon his appointment and expiring July 1, 1981. Thereafter the general chairman shall be appointed for a term of four years. In the event of the death, resignation or disqualification of the general chairman, the Governor shall appoint a new general chairman to fill the unexpired term. The Governor shall have the authority to remove any member of the commission for misfeasance, malfeasance or nonfeasance."

Sec. 3. The State Inmate Labor Commission shall at their regularly scheduled meetings study the inmate labor programs of other states, in particular the states of Florida and Texas, and make appropriate recommendations to the 1979 General Assembly.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 715 **CHAPTER 686**

AN ACT TO AMEND ARTICLE 9, CHAPTER 65 OF THE GENERAL STATUTES RELATING TO CEMETERIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 65-47, as the same appears in the 1975 Supplement to Volume 2C, is hereby amended by adding the following subsection at the end thereof:

"(c) The provisions of this Article shall not apply to persons licensed under G.S. 65-36.1 through G.S. 65-36.8 when performing services or selling items for which a license is required under G.S. 65-36.1 through G.S. 65-36.8."

Sec. 2. G.S. 65-48(4), as the same appears in the 1975 Supplement to Volume 2C of the General Statutes is hereby rewritten to read as follows:

"(4) 'Cemetery broker' means a legal entity engaged in the business of arranging sales of cemetery products between legal entities and which sale does not involve a cemetery company, but does not mean funeral establishments or funeral directors operating under G.S. 90-210.25, when dealing between legal entities wherein one such entity shall be members of the family of a deceased person or other persons authorized by law to arrange for the burial and funeral of such deceased human being. The North Carolina Cemetery Act shall not apply to any cemetery broker selling less than five grave spaces per year."

Sec. 3. G.S. 65-48(7), as the same appears in the 1975 Supplement to Volume 2C of the General Statutes, is hereby rewritten to read as follows:

"(7) 'Cemetery sales organization' means any legal entity contracting with a cemetery which is exempt or not exempt under this Article to conduct sales of cemetery products, but does not mean individual salesmen or sales managers employed by and contracting directly with cemetery companies operating under this Article, nor does it mean funeral establishments or funeral directors operating under licenses authorized by G.S. 90-210.25 when dealing directly with a cemetery company and with members of the family of a deceased person or other persons authorized by law to arrange for the burial and funeral of such deceased human being."

Sec. 4. G.S. 65-53(3) is hereby rewritten to read as follows:

"(3) Investigate, upon its own initiative or upon a verified complaint in writing, the actions of any person engaged in the business or acting in the capacity of a licensee under this Article. The license of a licensee may be revoked or suspended for a period not exceeding two years, or until compliance with a lawful order imposed in the final order of suspension, or both, where the licensee in performing or attempting to perform any of the acts specified in this Article has been guilty of:

a. failing to pay the fees required herein;

b. failing to make any reports required by this Article;

c. failing to remit to the care and maintenance trust fund, merchandise trust fund, or preconstruction trust fund the required amounts;

d. making any substantial misrepresentation;

e. making any false statement of a character likely to influence or persuade;

f. a continued and flagrant course of misrepresentation or making of false promises through cemetery agents or salesmen;

g. violating any provision of this Article or rule promulgated by the commission; or

h. any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing."

Sec. 5. G.S. 65-53(5), as the same appears in the 1975 Supplement to Volume 2C of the General Statutes, is hereby amended by striking out the word "licensed" immediately following the words "in the court of the county in which the" in line 2 and immediately preceding the words "place of business" in line 3.

Sec. 6. G.S. 65-53(5), as the same appears in the 1975 Supplement to Volume 2C of the General Statutes, is hereby amended by striking out the last sentence which reads, "The commission may institute proceedings against the cemetery or its officers, whereafter an examination, pursuant to this Article, a shortage in the care and maintenance trust fund is discovered, to recover said shortage." and substituting in lieu thereof the sentence, "The commission may institute proceedings against the cemetery or its officers, whereafter an examination, pursuant to this Article, a shortage in the care and maintenance trust fund, merchandise trust fund or mausoleum and belowground crypts preconstruction trust fund is discovered, to recover said shortage."

Sec. 7. G.S. 65-54, as the same appears in the 1975 Supplement to Volume 2C, is hereby rewritten to read as follows:

"§ 65-54. *Annual budget of commission; collection of funds for operation.*— The commission shall prepare an annual budget and shall collect the sums of money required for this budget from yearly fees and any other source provided in this Article. On or before July 1 of each year, each licensed cemetery will pay a license fee of one hundred dollars ($100.00) per year; and in addition, a fee for each grave space, niche, mausoleum crypt deeded, and preneed cemetery merchandise contract for vaults, preconstructed belowground crypts, preconstructed mausoleum crypts, and memorials to be set by the commission each year in order to defray the expenses of the commission as set forth in the budget. Said additional fees shall not exceed seventy-five cents (75¢) per grave space, niche, and mausoleum crypt deeded, and three dollars ($3.00) per item in each preneed cemetery merchandise contract for vaults, preconstructed belowground crypts, preconstructed mausoleum crypts and memorials."

Sec. 8. G.S. 65-55(d), as the same appears in the 1975 Supplement to Volume 2C, is hereby rewritten to read as follows:

"(d) The commission, after receipt of the investigation report, shall grant or refuse to grant the authority to organize a cemetery based upon the criteria set forth in G.S. 65-55(c)."

Sec. 9. G.S. 65-57(c), as the same appears in the 1975 Supplement to Volume 2C, is hereby amended by adding the following sentence at the end thereof:

"On or before July 1 of each year, each licensed cemetery sales organization, cemetery management organization, or cemetery broker shall pay a license renewal fee of one hundred dollars ($100.00) per year."

Sec. 10. G.S. 65-57(e), as the same appears in the 1975 Supplement to Volume 2C, is hereby rewritten to read as follows:

"(e) The commission, after receipt of the investigation report, shall grant or refuse to grant the authority to organize the organization applied for after it determines that the applicant possesses good character and general fitness or, in the case of a business association, employs and is directed by personnel of good character and general fitness."

Sec. 11. G.S. 65-58(c), as the same appears in the 1975 Supplement to Volume 2C of the General Statutes, is hereby amended to correct a misspelled word by deleting the word "sent" in line 4 and substituting in lieu thereof the word "set".

Sec. 12. G.S. 65-58, as the same appears in the 1975 Supplement to Volume 2C, is hereby amended by striking out G.S. 65-58(g) which reads, "The provisions of this Article 9 shall not apply to persons holding a certificate under G.S. 65-36.1 through G.S. 65-36.8".

Sec. 13. The first sentence of G.S. 65-61, as the same appears in the 1975 Supplement to Volume 2C, of the General Statutes, is hereby rewritten to read as follows:

"No cemetery company shall be permitted to establish, or operate if already established, a cemetery unless provision is made for the future care and maintenance of such cemetery by establishing a trust fund and designating a corporate trustee to administer said fund in accordance with a written trust agreement."

Sec. 14. G.S. 65-64, as the same appears in the 1975 Supplement to Volume 2C, is hereby rewritten to read as follows:

"§ 65-64. *Deposits to perpetual care fund.*—(a) Deposits to the care and maintenance trust fund must be made by the cemetery company holding title to the subject cemetery lands not later than 10 days following the close of the calendar month in which final payment is received as provided herein; however the entire amount required to be deposited into the fund shall be paid within four years from the date of any contract requiring such payment regardless of whether all amounts have been received by the cemetery company. If the cemetery company fails to make timely deposit, the commission may levy and collect a penalty of one dollar ($1.00) per day for each day the deposit is delinquent on each grave space, niche or mausoleum crypt sold. The care and maintenance trust fund shall be invested and reinvested by the trustee in the same manner as provided by law for the investment of other trust funds by the clerk of the superior court except that such investments may be made through means of a common trust fund as described in G.S. 36-47. The fees and other expenses of the trust fund shall be paid by the trustee from the net income thereof and may not be paid from the corpus. To the extent that the said net income is not sufficient to pay such fees and other expenses, the same shall be paid by the cemetery company.

(b) When a municipal, church-owned or fraternal cemetery converts to a private cemetery as defined in G.S. 65-48, then said cemetery shall establish and maintain a care and maintenance trust fund pursuant to this section; provided, however, the initial deposit for establishment of this trust fund shall be an amount equal to ten dollars ($10.00) per space for all spaces either previously sold or contracted for sale in said cemetery at the time of conversion or twenty-five thousand dollars ($25,000), whichever sum is greater.

(c) Each cemetery hereinafter established shall create a care and maintenance trust fund depositing therein an initial deposit of not less than fifteen thousand dollars ($15,000) and submit proof thereof to the commission prior to offering for sale any burial rights in grave spaces, niches or crypts.

(d) In each sales contract, reservation or agreement wherein burial rights are priced separately, the purchase price of said burial rights shall be the only item subject to care and maintenance trust fund deposits; but if the burial rights are

not priced separately therein, the full amount of the contract, reservations or agreement shall be subject to care and maintenance trust fund deposits as provided herein, unless the purchase price of said burial rights can be determined from the accounting records of the cemetery company.

(e) When the amount deposited in the perpetual care fund required by this Article of any cemetery heretofore or hereafter established shall amount to one hundred fifty thousand dollars ($150,000), anything in this Article to the contrary notwithstanding, the cemetery may make all deposits thereafter either into the original perpetual care trust fund or into a separate fund which shall be an irrevocable trust and designated as Perpetual Care Trust Fund 'A' and invested by trustee as directed by the cemetery, but may not be invested in another cemetery, and said deposits shall be not less than twenty dollars ($20.00) per grave space and niche and forty dollars ($40.00) per mausoleum crypt space.

(f) For special endowments for a specific lot, grave, or a family mausoleum, memorial, marker, or monument, the cemetery may set aside the full amounts received for this individual special care in a separate trust or by a deposit to a savings account in a bank or savings and loan association located within and authorized to do business in the State; provided, however, if the licensee does not set up a separate trust or savings account for the special endowment the full amount thereof shall be deposited in Perpetual Care Trust Fund 'A'."

Sec. 15. Article 9, Chapter 65 of the General Statutes is hereby amended by adding a new section immediately following G.S. 65-60, and immediately preceding G.S. 65-61, to be numbered G.S. 65-60.1, and to read as follows:

"§ 65-60.1. *Trustees; qualifications; examination of records; enforcement.*—(a) The term 'corporate trustee' as used in this Article shall mean either a bank or trust company authorized to do business in North Carolina under the supervision of the Commissioner of Banks or any other corporate entity; provided that any corporate entity other than a bank or trust company which acts as trustee under this Article shall first be approved by the Cemetery Commission and shall be subject to supervision by the Cemetery Commission as provided herein.

(b) Any corporate entity, other than a bank or trust company, which desires to act as trustee for cemetery funds under this Article shall make application to the commission for approval. The commission shall approve the trustee when it has become satisfied that:

(1) The applicant employs and is directed by persons who are qualified by character, experience, and financial responsibility to care for and invest the funds of others.

(2) The applicant will perform its duties in a proper and legal manner and the trust funds and interest of the public generally will not be jeopardized.

(3) The applicant will act as trustee for cemetery funds which will exceed five hundred thousand dollars ($500,000) in the aggregate.

(4) The applicant is authorized to do business in North Carolina and has adequate facilities to perform its duties as trustee.

(c) Any trustee under this Article, other than a bank or trust company under the supervision of the Commissioner of Banks, shall maintain records relative to cemetery trust funds as the commission may by regulation prescribe. The records shall be available at the trustee's place of business in North Carolina

and shall be audited annually by the State Auditor and shall be available at all reasonable times for examination by a representative of the commission.

(d) Whenever it appears that an officer, director, or employee of a trustee, other than a bank or trust company, is dishonest, incompetent, or reckless in the management of a cemetery trust fund, the commission may bring an action in the courts to remove the trustee and to impound the property and business of the trustee as may be reasonably necessary to protect the trust funds.

(e) Any trustee shall invest and reinvest cemetery trust funds in the same manner as provided by law for the investment of trust funds by the clerk of the superior court."

Sec. 16. G.S. 65-70(b), as the same appears in the 1975 Supplement to Volume 2C, is hereby rewritten to read as follows:

"(b) A cemetery company which plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust fund. The trust fund shall be administered and operated in the same manner as the merchandise trust fund provided for in G.S. 65-66 and shall be exclusive of the merchandise trust fund or such other trust funds that may be required by law. The personal representative of any purchaser of such space who dies before completion of construction shall be entitled to a refund of all monies paid for such space including any income earned thereon."

Sec. 17. G.S. 65-70(d), as the same appears in the 1975 Supplement to Volume 2C, is hereby rewritten to read as follows:

"(d) The cemetery company shall be entitled to withdraw the funds from said preconstruction trust fund only after the commission has become satisfied that construction has been completed; provided, however, that during construction of the mausoleum or bank of belowground crypts the commission may, in its discretion, authorize a specific percentage of the funds to be withdrawn when it appears that at least an equivalent percentage of construction has been completed."

Sec. 18. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. B. 730 CHAPTER 687

AN ACT TO EXTEND SOME OR ALL OF THE PROVISIONS OF THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT TO NONPROFIT CORPORATIONS RECEIVING MONEYS FROM COUNTIES AND CITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 159, Article 3 is amended by adding a new Part 5, to read as follows:

"PART 5.

"Nonprofit Corporations Receiving Public Funds.

"§ 159-40. *Special regulations pertaining to nonprofit corporations receiving public funds.*—(a) If a county or city grants or appropriates one thousand dollars ($1,000) or more in any fiscal year to a nonprofit corporation, to be used for public purposes for that fiscal year, the nonprofit corporation is subject to this Article as provided in this section.

(b) Such a nonprofit corporation is subject to G.S. 159-34, regarding the annual independent audit. The audit shall cover all accounts of the nonprofit corporation and shall be conducted for the fiscal year of the corporation in which the money is received, which need not be the same fiscal year as required by G.S. 159-8. The chief financial official of the nonprofit corporation shall file a copy of the audit report with the finance officer of each county or city granting or appropriating moneys to the corporation for the fiscal year covered by the audit report.

(c) If grants and appropriations from one or more counties or cities comprise twenty-five percent (25%) or more of the fiscal year's receipts of the nonprofit corporation, or if the total amount of grants and appropriations from the federal government, the State government, and one or more counties or cities comprise fifty percent (50%) or more of the fiscal year's receipts of the nonprofit corporation, the corporation is deemed a public authority for purposes of this Article and is fully subject to each provision of the Article applying to public authorities.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, neither nonprofit corporations that own or operate hospitals, nor volunteer fire departments, rescue squads, and ambulance squads organized as nonprofit corporations, nor nonprofit corporations which are primarily involved in travel and leisure operations shall be subject to this Article."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 855

CHAPTER 688

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF PRINCEVILLE AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Princeville is hereby revised and consolidated to read as follows:

"The Charter of the Town of Princeville.

"ARTICLE I.

"Incorporation, Corporate Powers and Boundaries.

"Section 1.1. *Incorporation.* The Town of Princeville, North Carolina in the County of Edgecombe, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Princeville', (hereinafter at times referred to as the 'town').

"Sec. 1.2. *Powers.* The Town of Princeville shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Princeville specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate limits.* The corporate limits of the Town of Princeville shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the town, and as the same may be altered from time to time in accordance with law. An official map of the town, showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon

alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the town shall be made.

"Section 1.4 through Section 1.10. (Reserved.)

"ARTICLE II.

"Mayor and Board of Commissioners.

"Sec. 2.1. *Governing body.* The mayor and board of commissioners, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and board may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

"Sec. 2.2. *Board of commissioners; composition; terms of office.* The board of commissioners shall be composed of 12 members, each of whom shall be elected for terms of four years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Selection of the mayor; term of office; duties.* The mayor shall be selected by the board of commissioners from among its membership, to serve at its pleasure. The mayor shall be the official head of the town government and shall preside at all meetings of the board of commissioners. The mayor, in his capacity as a member of the board, shall have the right to vote on all matters before the board, and shall have the right to vote a second time, in his capacity as mayor, in order to break a tie vote in which he participated. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the town.

"Sec. 2.4. *Mayor pro tempore.* In accordance with applicable State laws, the board of commissioners shall appoint one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in this capacity at the pleasure of the remaining members of the board.

"Sec. 2.5. *Meetings of the board.* In accordance with the General Statutes, the board of commissioners shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clause of all town ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Princeville'.

"Sec. 2.7. *Voting requirements; quorum.* Official action of the board of commissioners shall be, unless required otherwise by law, by majority vote, provided that a quorum, consisting of a majority of the actual membership of the board, is present. Vacant seats are to be subtracted from the normal board membership to determine the actual membership.

"Sec. 2.8. *Qualifications for office; vacancies; compensation.* The compensation of board members, the filling of vacancies on the board, and the qualifications of board members shall be in accordance with applicable provisions of the General Statutes.

"Section 2.9 through Section 2.15. (Reserved.)

"ARTICLE III.

"Elections.

"Sec. 3.1. *Regular municipal elections; conduct and method of election.* Regular municipal elections shall be held in the town every four years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. Members of the board of commissioners shall be elected according to the nonpartisan plurality method of elections.

"Sec. 3.2. *Election of the board of commissioners.* At the regular municipal elections in 1977, and quadrennially thereafter, there shall be elected 12 members to the board of commissioners to represent respectively, each of the 12 electoral districts herein established. The qualified voters of each electoral district shall nominate and elect a candidate to fill the seat apportioned to each respective district. Every person elected to the board of commissioners and every candidate for the office of commissioner shall reside in the ward which he represents or seeks to represent.

"Sec. 3.3. *Electoral districts; district boundaries.* The town shall continue to be divided into 12 single-member electoral districts, the district boundaries being drawn so that each district includes, as nearly as possible, the same number of persons residing therein.

The electoral district boundaries shall be those existing at the time of the ratification of this Charter, as the same are set forth by an official written description. The official written description of the electoral district boundaries shall be maintained permanently in the office of the town clerk, and shall be available for public inspection.

The board of commissioners is authorized, in accordance with State law, to revise from time to time the electoral district boundaries of the town. Upon alteration of the district boundaries pursuant to law, the board shall cause to be made the appropriate changes in the official written description.

"Section 3.4 through Section 3.10. (Reserved.)

"ARTICLE IV.

"Organization and Administration.

"Sec. 4.1. *Form of government.* The town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *Town manager.* The board of commissioners shall appoint a town manager who shall be the head of the administrative branch of town government, and who shall be responsible to the board for the proper administration of the affairs of the town. In exercising his duties as chief administrator, the manager shall have the following powers and duties:

(a) He shall appoint and suspend or remove all town employees whose appointment or removal is not otherwise provided for by law, in accordance with such general personnel rules, regulations, policies, or ordinances as the board may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the board, except as otherwise provided by law.

(c) He shall attend all meetings of the board and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the town Charter and the ordinances, resolutions and regulations of the board are faithfully executed within the town.

(e) He shall prepare and submit the annual budget and capital program to the town.

(f) He shall annually submit to the board and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(g) He shall make any other reports that the board may require concerning the operations of the town departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the board.

"Sec. 4.3. *Town attorney.* The board of commissioners shall appoint a town attorney who shall be licensed to engage in the practice of law in the State of North Carolina. On request by the mayor and board, it shall be the duty of the town attorney to prosecute and defend suits against the town; to advise the mayor, board of commissioners and other town officials with respect to the affairs of the town; to draft legal documents relating to the affairs of the town; to inspect and pass upon agreements, contracts, franchises and other instruments with which the town may be concerned; to attend meetings of the board as requested by the mayor or a majority of the board; and to perform other duties as the board may direct.

"Sec. 4.4. *Town clerk.* The town manager shall appoint a town clerk to keep a journal of the proceedings of the board, to maintain in a safe place all records and documents pertaining to the affairs of the town, and to perform such other duties as may be required by law or as the board of commissioners may direct.

"Sec. 4.5. *Town finance officer.* The town manager shall appoint a town finance officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. *Town tax collector.* The town manager shall appoint a town tax collector to collect all taxes, licenses, fees and other moneys belonging to the town, subject to the General Statutes, the provisions of this Charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities.

"Sec. 4.7. *Consolidation of functions* . The board of commissioners may consolidate any two or more positions of town manager, town clerk, town tax collector, and town finance officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. *Other administrative officers and employees.* Consistent with applicable State laws, the board of commissioners may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"Section 4.9 through Section 4.15. (Reserved.)

"ARTICLE V.

"Special Provisions.

"Sec. 5.1. *Street improvements; assessment of costs.* In addition to any authority which is now or may hereafter be granted by general law to the town for making street improvements, the board of commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of Sections 5.1 through 5.6 herein.

"Sec. 5.2. *When petition unnecessary.* The board of commissioners may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the board as a fact:

(a) that the street improvement project does not exceed 1,200 linear feet, and

(b) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(c) that it is in the public interest to connect two streets, or portions of a street already improved, or

(d) that it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 5.3. *Street improvement defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 5.4. *Sidewalks; assessment of costs.* In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the board of commissioners is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the board of commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 5.5. *Assessment procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the board of commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 5.6. *Effect of assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Section 5.7 through Section 5.15. (Reserved.)"

Sec. 2. Authority to conduct annexations according to general statutory standards. As provided herein, the Town of Princeville shall hereafter be authorized to extend its corporate limits by the procedure authorized to cities of less than 5,000 population in Part 2 of Article 4A of Chapter 160A of the General Statutes. To this end, the provisions of G.S. 160A-44, as the same appear in the 1976 Replacement Volume 3D, are hereby amended by inserting in the second line thereof, immediately after the words, "the towns of", the word, "Princeville,".

Sec. 3. The purpose of this act is to revise the Charter of the Town of Princeville and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 4. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Princeville.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 5. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 29, Private Laws of 1885
Chapter 418, Private Laws of 1905
Chapter 218, Private Laws of 1923
Chapter 133, Public-Local Laws of 1937
Chapter 355, Session Laws of 1955
Chapter 596, Session Laws of 1959
Chapter 795, Session Laws of 1963

Sec. 6. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 7. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 8. (a) All existing ordinances and resolutions of the Town of Princeville and all existing rules or regulations of departments or agencies of the Town of Princeville, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Princeville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. B. 861 CHAPTER 689

AN ACT TO CREATE WENDELL-KNIGHTDALE AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the Wendell-Knightdale Airport Authority, hereinafter referred to as the Airport Authority, which shall be a body corporate and politic and which shall have the powers hereinafter set forth.

Sec. 2. The Airport Authority shall consist of four members. Two members, who shall reside within the zoning jurisdiction of the Town of Knightdale, shall be appointed by the Mayor of Knightdale, subject to the approval of the Knightdale Board of Aldermen. Two members, who shall reside within the zoning jurisdiction of the Town of Wendell, shall be appointed by the Mayor of Wendell subject to the approval of the Wendell Board of Commissioners. The terms of office shall be four years, except that the initial terms shall be as follows: one member, chosen by lot, shall serve four years; one member, chosen by lot from the remaining three members, shall serve three years; one member, chosen by lot from the remaining two members, shall serve two years; the remaining member shall serve one year. Upon the occurrence of any vacancy on the Airport Authority, or in the event a member of the Airport Authority becomes ineligible because he ceases to reside within the zoning jurisdiction from which he was appointed, said vacancy shall be filled by the same appointing procedure as was used to appoint the vacating member, except that the newly appointed member shall serve only the unexpired term of the vacating member. The Airport Authority shall elect a chairman from among its membership, and he shall serve as chairman for two years or until his term expires.

Sec. 3. The Airport Authority shall adopt suitable bylaws for the conduct of business, and shall make provision for the recording of minutes of all meetings.

Sec. 4. The Airport Authority shall have the following powers:

a. To purchase, lease, construct, maintain, improve, equip, operate, and regulate an airport for the use of aircraft or for any other purposes, and to purchase, lease, or otherwise hold such real or personal property as may, at the discretion of the Airport Authority, be deemed necessary to the operation of said airport.

b. To sue or be sued in the name of the Airport Authority, to make such contracts as may be necessary for the exercise of its powers, and to acquire by purchase or otherwise any existing lease, leasehold right, or other interest in any existing airport.

c. To charge and collect reasonable fees and rents for the use of the airport or for services rendered in the operation thereof.

d. To establish and enforce such regulations as it may deem necessary for the proper maintenance and operation of the airport, and to fix penalties for violation of said regulations, except that said regulations shall not conflict with the laws of the State of North Carolina, nor with the Federal Aviation Regulations.

e. To sell, lease, rent, or otherwise dispose of any property belonging to the Airport Authority.

f. To contract, covenant, or otherwise establish agreement with one or more second parties, under which agreement said party or parties shall manage, supervise, or operate the airport for a term not to exceed 25 years in return for such compensation as may be agreed to by the Airport Authority, and subject to such surety as may be required by the Airport Authority.

g. To lease to one or more second parties for a term not exceeding 25 years any or all real or personal property held by the Airport Authority in order to assure the maintenance, operation, or construction of the airport or any part thereof.

h. To employ such agents, engineers, or attorneys as may be necessary, in the judgment of the Airport Authority, to carry out the provisions of this act.

i. To accept and to use for any of the purposes set forth in this act gifts, grants, bequests, or donations from the individuals, businesses, or from federal, State, municipal, or county governments, or agencies thereof.

Sec. 5. The Airport Authority shall make annual reports to the Board of Commissioners of the Town of Wendell and the Board of Aldermen of the Town of Knightdale, setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall have no power to pledge the credit of either of said towns, or to impose any obligation upon said towns, nor shall said towns be liable in tort for any act or omission of the Airport Authority.

Sec. 6. The Airport Authority shall meet at such times and in such places as the chairman may designate, provided that the Airport Authority shall meet at least once during each six-month period. All decisions of the authority shall require majority approval of those present and voting. Provided that funds are available, the Airport Authority may pay the actual expenses incurred by its members while said members are conducting the business of the Airport Authority pursuant to this act.

Sec. 7. It is the specific intent of this legislation to authorize, but not to compel, the creation of the Airport Authority, and none of the powers granted by any section of this act shall become effective unless and until initial

appointments are made to the Airport Authority in accordance with the procedures set forth in Section 2.

Sec. 8. All sections, subsections, and parts of this act are declared severable, and a finding that any section, subsection, or part of this act is unconstitutional shall not affect the validity of remaining sections, subsections, or parts.

Sec. 9. This act shall become effective upon ratification by the General Assembly of the State of North Carolina.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 100 CHAPTER 690

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO INSURE THE CONTINUATION OF THE POLICY OF A BALANCED BUDGET.

The General Assembly of North Carolina enacts:

Section 1. Article III, Section 5(3) of the Constitution of North Carolina is amended by adding thereto a second unnumbered paragraph as follows:

"The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next general election or at the next statewide election, whichever first occurs. That election shall be conducted under the laws then governing elections in this State. The State shall reimburse the counties of the State for all necessary expenses incurred in holding said election and registration therefor, the same to be paid out of the Contingency and Emergency Fund unless otherwise expressly provided for.

Sec. 3. At that election, each qualified voter presenting himself to vote shall be provided a ballot on which shall be printed the following:

"☐ FOR constitutional amendment requiring that the total expenditures of the State for the fiscal period covered by the State budget shall not exceed the total of revenues raised during that fiscal period and any surplus remaining in the State Treasury at the beginning of the period, and requiring the Governor to effect the necessary economies in State expenditures whenever he determines that a deficit is threatened.

"☐ AGAINST constitutional amendment requiring that the

total expenditures of the State for the fiscal period covered by the State budget shall not exceed the total of revenues raised during that fiscal period and any surplus remaining in the State Treasury at the beginning of the period, and requiring the Governor to effect the necessary economies in State expenditure whenever he determines that a deficit is threatened."

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by marking X on check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to that amendment shall vote by marking an X or check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 4. If a majority of the votes cast thereon are in favor of the amendment set out in Section 1 of this act, the Governor shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office. The amendment shall become effective upon such certification and shall apply to the State budget enacted for the fiscal period beginning July 1, 1977, and all subsequent fiscal periods.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 445 CHAPTER 691

AN ACT TO PROVIDE FOR THE FIXING OF UTILITY RATES IN NORTH CAROLINA BASED UPON THE REASONABLE ORIGINAL COST OF THE PROPERTY OF THE PUBLIC UTILITY USED AND USEFUL IN PROVIDING SERVICE TO THE PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-2, entitled "Declaration of policy", is hereby amended to include a new subsection (5) as shown below and renumbering of present subsections (5), (6), (7), and (8) to (6), (7), (8), and (9) respectively:

"(5) To assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities; and to that end to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities by making provisions in the rate-making process for the investment of public utilities in plant under construction."

Sec. 2. G.S. 62-133, entitled "How rates fixed", is hereby amended by rewriting subsections (b)(1) and (b)(4) of said G.S. 62-133 and by adding a new subsection (b)(5), and by renumbering and rewriting present subsection (b)(5) as subsection (b)(6), said rewritten and new subsections to read as follows:

"(1) Ascertain the reasonable original cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, less that portion of the cost which has been consumed by previous use recovered by depreciation expense plus the reasonable original cost of investment in plant

under construction (construction work in progress). In ascertaining the cost of the public utility's property, construction work in progress as of the effective date of this subsection shall be excluded until such plant comes into service but reasonable and prudent expenditures for construction work in progress after the effective date of this subsection shall be included subject to the provisions of subparagraph (b)(5) of this section.

(4) Fix such rate of return on the cost of the property ascertained pursuant to paragraph (1) as will enable the public utility by sound management to produce a fair return for its shareholders, considering changing economic conditions and other factors, as they then exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms which are reasonable and which are fair to its customers and to its existing investors.

(5) Require each public utility to discontinue capitalization of the composite carrying cost of capital funds used to finance construction (allowance for funds) on the construction work in progress included in its rate base upon the effective date of the first and each subsequent general rate order issued with respect to it after the effective date of this subsection; allowance for funds may be capitalized with respect to expenditures for construction work in progress not included in the utility's property upon which the rates were fixed. In determining net operating income for return, the commission shall not include any capitalized allowance for funds used during construction on the construction work in progress included in the utility's rate base.

(6) Fix such rates to be charged by the public utility as will earn in addition to reasonable operating expenses ascertained pursuant to paragraph (3) of this subsection the rate of return fixed pursuant to paragraphs (4) and (5) on the cost of the public utility's property ascertained pursuant to paragraph (1)."

Sec. 3. G.S. 62-133(c) is amended by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(c) The original cost of the public utility's property, including its construction work in progress, shall be determined as of the end of the test period used in the hearing and the probable future revenues and expenses shall be based on the plant and equipment in operation at that time. The test period shall consist of 12 months' historical operating experience prior to the date the rates are proposed to become effective, but the commission shall consider such relevant, material and competent evidence as may be offered by any party to the proceeding tending to show actual changes in costs, revenues or the cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, including its construction work in progress, which is based upon circumstances and events occurring up to the time the hearing is closed."

Sec. 4. This act shall become effective with respect to rate applications filed with the North Carolina Utilities Commission on and after July 1, 1979.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 468 CHAPTER 692

AN ACT TO AMEND G.S. 90-297 TO EXTEND THE SPEECH AND LANGUAGE PATHOLOGIST AND AUDIOLOGIST GRANDFATHER CLAUSE CLOSING DATE AND PROVIDE NOTICE TO PERSONS WHO MAY BE AFFECTED THEREBY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-297(c) is amended in the fourth line by deleting the date "December 31, 1975", and inserting in lieu thereof the date "February 28, 1978".

Sec. 2. G.S. 90-297 is amended by adding a new subsection to read as follows:

"(d) Notice that proof of bona fide practice must be presented to the board in accordance with subsection (c) of this section shall be given by the board on or before December 1, 1977, to the following:

(1) members of the North Carolina Speech, Hearing and Language Association who are not licensed under this Article;

(2) speech and language pathologists and audiologists certified by the State Department of Public Instruction who are not licensed under this Article; and

(3) all institutions reasonably known to have speech and language pathologists and audiologists in their employment."

Sec. 3. G.S. 90-294 is amended by adding a new subsection to read as follows:

"(h) No license under this Article is required for persons originally employed by any agency of State government between October 1, 1975, and July 1, 1977, for the practice of speech and language pathology or audiology within and during the course and scope of employment with such agency."

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 470 CHAPTER 693

AN ACT TO AMEND G.S. 18A-35 TO ALLOW LOCAL GOVERNMENT UNITS TO REGULATE THE PUBLIC CONSUMPTION OF MALT BEVERAGES AND WINE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-35(a) is hereby amended by adding at the end thereof the following:

"Provided, the local government units of the State shall have, and they are hereby vested with, full power and authority to regulate the consumption of malt beverages or unfortified wines on property owned or occupied by the local government unit."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 550 **CHAPTER 694**

AN ACT TO AMEND G.S. 143B-182 AND G.S. 143B-183 TO MODIFY THE STATE MENTAL HEALTH COUNCIL FOR THE PURPOSE OF MEETING REQUIREMENTS SET BY FEDERAL AUTHORITIES AS A CONDITION TO RECEIVING FEDERAL AID.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-182 is hereby amended by adding the word "Advisory" to the section heading and the two sentences of this section so that the phrase "Mental Health Council" will now read "Mental Health Advisory Council". This will require the insertion of the word "Advisory" between "Health" and "Council" in four places.

Sec. 2. G.S. 143B-182 is further amended by adding the following sentence as subdivision (3):

"(3) Additionally, the Mental Health Advisory Council shall consult with the Secretary of Human Resources in administering a State plan for the provision of comprehensive mental health services and the council is empowered to engage in any activities specified in federal mental health legislation for the purpose of meeting requirements set by federal authorities as a condition to receiving federal aid."

Sec. 3. G.S. 143B-183 is hereby amended by adding the word "Advisory" to the section heading and the first sentence of the section so that the phrase "Mental Health Council" will now read "Mental Health Advisory Council". This will require the insertion of the word "Advisory" between "Health" and "Council" in two places.

Sec. 4. G.S. 143B-183 is amended by striking the number "21" on line 2 of the section and replacing it with "no more than 35".

Sec. 5. Subdivision (3) of G.S. 143B-183 is hereby rewritten to read as follows:

"(3) Up to 23 at-large members. These appointments shall be made pursuant to current federal rules and regulations which prescribe the selection process and demographic blend as a necessary condition to the receipt of federal aid. At the Governor's request, the Department of Human Resources shall render to the Governor such advice and assistance as may be required to make the proper appointments to meet the federal requirements. The Governor shall exercise his power of appointment to reconstitute or fill vacancies on the council in a manner that will meet current federal rules and regulations concerning the council."

Sec. 6. The sentence beginning on line 30 of G.S. 143B-183 which reads in part "Members of the Council shall receive per diem..." is hereby rewritten to read as follows:

"Council members who are members of the General Assembly shall receive subsistence and travel allowance at the rate set forth in G.S. 120-3.1(b) and (c). Council members who are employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. All other council members shall receive per diem compensation and travel expenses at the rate set forth in G.S. 138-5."

Sec. 7. G.S. 143B-183 is further amended by: (1) deleting the phrase "Department of Social Rehabilitation and Control" in subdivision (1) of that section and substituting the phrase "Department of Correction" therefor and

(2) deleting the phrase "Council on Mental Retardation" in subdivision (2) and substituting the phrase "Council on Developmental Disabilities" therefor.

Sec. 8. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 9. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 671 CHAPTER 695

AN ACT TO REGULATE THE SETTING OF STEEL TRAPS AND CONNIBEAR TRAPS IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful in Carteret, Onslow and Wayne Counties for any person, firm or corporation to set steel traps or connibear traps of any type or take any animal caught in any steel trap or connibear trap on any lands, except as hereinafter provided.

Sec. 2. It shall be lawful for any person, firm or corporation to set or possess steel traps and connibear traps and take animals therefrom provided not otherwise prohibited by law, on his own land. It shall be lawful for any person, firm or corporation to set or possess steel traps and connibear traps and take animals on leased or sublet lands in Carteret, Onslow and Wayne Counties provided:

(a) There is a written lease between the owner or lessor of lands and his lessee, which lease shall contain in clear terms permission to the lessee to trap on the lands described in said lease.

(b) Any person not specifically named in said lease as the grantee of the right to trap shall not be deemed to have authority to trap on any lands described in said lease.

Sec. 3. It is the intent and purpose of this act to prevent any person, firm or corporation from setting or using steel traps and connibear traps of any type on lands in Carteret, Onslow and Wayne Counties unless used on lands owned by the trapper or unless used on lands leased as hereinabove provided.

Sec. 4. Violation of this act shall be a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) or more than two hundred dollars ($200.00), or by imprisonment of not more than 30 days, or by both fine and imprisonment, in the discretion of the court.

Sec. 5. This act shall be enforced by North Carolina Wildlife Protectors and all other law enforcement officers.

Sec. 6. It shall be lawful in Carteret, Onslow and Wayne Counties for any person, firm or corporation to set or possess humane box-type traps and take animals therefrom, provided not otherwise prohibited by law.

Sec. 7. Nothing in this act shall prohibit the use of steel or metal jaw traps by county or State public health officials or their designated agents in order to control the spread of disease when the use of such steel or metal jaw traps has been declared necessary by the Department of Human Resources.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 719

CHAPTER 696

AN ACT TO AMEND ARTICLE 4 OF CHAPTER 122 OF THE GENERAL STATUTES TO PROTECT THE PRIVACY OF MINORS VOLUNTARILY ADMITTED TO A TREATMENT FACILITY BY MAKING THE COURT RECORD OF ADMISSION CONFIDENTIAL.

The General Assembly of North Carolina enacts:

Section 1. The "Voluntary Admission" procedure provided by Article 4 of Chapter 122 of the General Statutes is hereby amended by adding new sections immediately following G.S. 122-56.7, to be numbered G.S. 122-56.8 and G.S. 122-56.9, and to read as follows:

"§ 122-56.8. *Confidentiality of the court record of minors; violation a misdemeanor; court record to be expunged when the minor becomes an adult.*—(a) The court records of a minor made in all proceedings pursuant to G.S. 122-56.7 are hereby declared to be confidential and shall not be open to the general public for inspection except when such disclosure is provided for in G.S. 122-56.9.

(b) It shall be a misdemeanor for any person to disclose the confidential court records of subsection (a) of this section to members of the general public.

(c) The court records described in subsection (a) of this section shall, upon the request of the parent, guardian, or party admitted, be expunged from the files of the court after the party admitted has reached adulthood and has been released.

"§ 122-56.9. *Exception to confidentiality rule; procedure.*—Any person seeking information contained in the court files or the court records of proceedings involving minors made pursuant to an action under G.S. 122-56.7 may file a written motion in the cause setting out why the information is needed. A district court judge may issue an order to disclose the information sought if he finds such order is appropriate under the circumstances and if he finds that it is in the best interest of the minor or of the public to have such information disclosed."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 814

CHAPTER 697

AN ACT TO AMEND THE EXEMPTIONS FROM THE LOBBYING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-47.8, as it appears in the 1975 Cumulative Supplement to Volume 3B, is amended by adding the following subsections:

"(8) A person responding to inquiries from a member of the General Assembly, and who engages in no further activities as a legislative agent in connection with that or any other legislative matter.

(9) An individual giving facts or recommendations pertaining to legislative matters to his own legislative delegation only."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 998 CHAPTER 698

AN ACT AMENDING G.S. 24-14 RELATING TO LOANS SECURED BY SECONDARY OR JUNIOR MORTGAGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-14(b) is amended by adding at the end thereof the words "or any charges as authorized in G.S. 24-15."

Sec. 2. G.S. 24-14(c) is amended by rewriting this statute to read as follows:

"(c) Evidence of hazard insurance may be required by the lender of the borrower. Decreasing term credit life insurance is optional, in an amount not exceeding the sum of the monthly installments payable under the loan and for a period not exceeding the term of the loan; provided (1) that the borrower has indicated a desire to purchase such insurance by signing a statement to that effect, (2) that the borrower is advised that he may acquire this insurance from any insurance carrier, (3) that the borrower is aware that this insurance may be rescinded within 15 days after receipt of the policy, and (4) that the borrower directs the lender to purchase the above insurance from the proceeds of his loan.

The rates for the herein described insurance shall not exceed the standard rates approved by the Commissioner of Insurance for such insurance. Proof of all insurance issued in connection with loans subject to this Article shall be furnished to the borrower within 10 days from the date of application therefor by said borrower."

Sec. 3. G.S. 24-15(a) is amended in the second sentence thereof by deleting the words "Appraisal or recording" and inserting in lieu thereof the words "Charges and", and by deleting the words "for appraisals and registration."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1026 CHAPTER 699

AN ACT TO AMEND G.S. 15-223 TO MAKE IT CLEAR THAT THE EXPUNCTION OF RECORDS OF CONVICTIONS LAW DOES NOT APPLY TO TRAFFIC VIOLATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-223(a) is amended in line 5, after "misdemeanor", by inserting "other than a traffic violation".

Sec. 2. G.S. 15-223(a)(4) is amended in line 5, after "misdemeanor", by inserting "other than a traffic violation".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1116 **CHAPTER 700**

AN ACT TO AMEND NORTH CAROLINA G.S. 76-14 TO INCREASE PILOTAGE CHARGES FOR VESSELS NAVIGATING THE CAPE FEAR RIVER AND BAR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 76-14 is hereby amended by adding at the end of subsection (a) thereof the following language: "In addition to the regular charges on draft stated above, vessels shall be charged one and two-tenths cents (1.2¢) per maximum gross ton ($12.00 per M; or fraction thereof).

Sec. 2. G.S. 76-14(c) is hereby amended by deleting the figure "10" and inserting in lieu thereof the figure "15".

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1207 **CHAPTER 701**

AN ACT TO FURTHER EXTEND THE TIME FOR REGISTERING GRANTS OR COPIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 146 of Article 12 of the General Statutes is amended by adding a new section to read as follows:

"§ 146-60.1. *Further extension of time for registering grants or copies.*—The time for the registration of grants issued by the State of North Carolina, or copies of such grants duly certified by the Secretary of State under his official seal, be and the same hereby is extended for a period of four years from January 1, 1977, and such grants or copies thereof duly certified as above set forth may be registered within such time as fully as the original might have been registered at any time heretofore: Provided that nothing herein contained shall be held or have the effect to divest any rights, titles, or equities in or to the land covered by such grants or any of them acquired by any person from the State of North Carolina by or through any entry or grant made or issued since such grants were respectively issued, or those claiming through or under such subsequent entry or grant."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1267 **CHAPTER 702**

AN ACT TO AMEND ARTICLE 3 OF CHAPTER 140 AND PART 15 OF ARTICLE 2 OF CHAPTER 143B OF THE GENERAL STATUTES, CONCERNING THE NORTH CAROLINA ART SOCIETY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 140-13 as the same appears in the 1974 Replacement Volume 3C of the General Statutes is hereby amended by striking the word "State" from line 3 thereof.

Sec. 2. G.S. 140-14 is hereby rewritten to read as follows:

"§ 140-14. *North Carolina Art Society as membership arm of the North Carolina Museum of Art; promotion of public appreciation of art; organization of art exhibits, etc.*—The North Carolina Art Society, Incorporated, shall be the membership arm of the North Carolina Museum of Art, the means whereby citizens of North Carolina can support their museum through individual or corporate memberships in the society and through participation in its diverse programs. It shall be the duty of the North Carolina Art Society to promote the public appreciation of art and its role in the development of civilization; to organize State and regional art exhibits, including works by contemporary North Carolina artists; and to do all other things deemed necessary to advance the objectives of the society."

Sec. 3. G.S. 143B-89 is hereby rewritten to read as follows:

"§ 143B-89. *North Carolina Art Society, Incorporated.*—The North Carolina Art Society, Incorporated, shall continue to be under the patronage of the State as provided in Article 3 of Chapter 140 of the General Statutes of North Carolina. The governing body of the North Carolina Art Society, Incorporated, shall be a board of directors consisting of a minimum of 22 members as follows: the Governor, the Superintendent of Public Instruction, the State Treasurer, and the Director of the North Carolina Museum of Art, who shall be ex officio members; six members who shall be named by the Governor; and a minimum of 12 directors who shall be chosen by members of the North Carolina Art Society, Incorporated, in such manner and for such terms as that body shall determine. The six directors named by the Governor shall serve for terms of three years each."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1333 **CHAPTER 703**

AN ACT TO SECURE EFFECTIVE ENFORCEMENT OF THE INSULATION AND ENERGY UTILIZATION STANDARDS OF THE STATE BUILDING CODE AND TO FURTHER PROTECT THE PURCHASERS OF PRODUCTS AND SERVICES DESIGNED TO MEET THOSE STANDARDS.

The General Assembly of North Carolina enacts:

Section 1. Purpose and intent. Because of present and impending shortages of energy supplies, it is imperative that efforts be made to conserve and utilize such supplies as efficiently as possible. As a mechanism for achieving such efficiency, the State Building Code has been amended to include

requirements for insulation and efficient energy utilization in buildings erected in this State. However, over half of the counties of the State and many of its smaller towns presently lack inspectors to enforce these provisions. In addition, in view of the widespread publicity accorded this problem and proposed tax inducements at both the State and federal levels for installing insulation and other measures to improve efficiency of energy utilization, there is a danger that consumers may be defrauded by unscrupulous sellers or installers of such materials. This act is intended to provide an interim solution to these two problems, pending further guidance from federal authorities and general enforcement of the code in all areas of the State.

Sec. 2. Designation of local inspectors. Prior to September 1, 1977, the superintendent of each county, city, or joint inspection department (created under the provisions of G.S. Chapter 153A, Article 18, Part 4, or G.S. Chapter 160A, Article 19, Part 5, or G.S. Chapter 160A, Article 20, Part 1, or by local or special act of the General Assembly) shall designate the person or persons in that department responsible for enforcement of the insulation and energy utilization standards of the State Building Code and send their names and addresses to the Engineering and Building Codes Division of the North Carolina Department of Insurance; provided, nothing herein shall be construed to require the hiring of additional inspection personnel in any county, city, or joint inspection department which is in existence on the effective date of this act. In every county or city which does not have an inspection department, the governing board shall designate one or more "energy and insulation inspectors" and make such notification to the Department of Insurance; the territorial jurisdiction of such inspectors shall be the jurisdiction of the appointing unit, as specified in G.S. 160A-360, and they shall possess all applicable enforcement powers of a county or city inspection department.

Sec. 3. Training course for inspectors. Prior to January 1, 1978, and periodically thereafter, the Engineering and Building Codes Division of the Department of Insurance shall make available to the personnel designated pursuant to Section 2 of this act a course or courses of instruction covering the insulation and energy utilization requirements of the State Building Code for dwellings or other structures which are not required by law to be designed by a registered architect or professional engineer.

Sec. 4. Permits. On and after January 1, 1978, no person, firm, or corporation may for a consideration install, alter, or restore any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization standards without first securing a permit either from the inspection department with jurisdiction over the work site, or in the absence of such a department, from an energy and insulation inspector with appropriate jurisdiction. Such permit may be either (a) a general building permit evidencing full compliance with all applicable requirements of the State Building Code and other State and local laws, issued by an inspection department, or (b) a special permit issued by an energy and insulation inspector evidencing compliance with the insulation and energy utilization standards of the State Building Code.

Sec. 5. Contents of permit. A general building permit shall meet all the requirements of G.S. 153A-357 or G.S. 160A-417. A special permit shall comply with applicable requirements of those sections, but instead of containing a provision that the work done "shall comply with the State Building Code and

all other applicable State and local laws and local ordinances and regulations" it shall contain a provision that the work done "shall comply with the insulation and energy utilization standards of the State Building Code." Either type of permit shall give the name of the installer, his address, the number of any license or permit he has to engage in the profession or business of installing insulation or the type of installation proposed, and the estimated cost of the installation.

Sec. 6. Persons entitled to permit. No permit shall be issued under this act to any person, firm, or corporation who is not either (a) licensed as a contractor to do the proposed work, under Chapter 87 of the General Statutes, or (b) the holder of an annual license or permit to do such work issued by the county or city with jurisdiction over the site, pursuant to G.S. 153A-134, G.S. 160A-194, or a special or local act of the General Assembly; provided, however, that this requirement shall not apply to an owner working upon his own building nor to an installer working under the supervision of a registered architect or professional engineer, whose name and registration number shall appear upon the face of the permit.

Sec. 7. Inspections. During the progress of the work and at its conclusion, the inspection department or energy and insulation inspector shall make inspections as prescribed by G.S. 153A-360, 153A-363, 160A-420, and 160A-423. The installer shall notify the inspector at times specified by the inspector when the work is ready for different stages of inspection. When only a special permit has been issued, the energy and insulation inspector shall issue a certificate of compliance which states only that the work complies with the insulation and energy utilization standards of the State Building Code. When work is done on an existing building, it may be occupied while work is in progress and prior to issuance of the certificate of compliance.

Sec. 8. Inspection by architect or engineer. When work done under a permit is required under the provisions of Chapters 83 and 89C of the General Statutes or any other statute to be done pursuant to plans or specifications prepared by a registered architect or professional engineer, or when the work was done under the supervision of a registered architect or professional engineer as permitted by Section 6 of this act, the architect or engineer, or both, shall inspect the work done and shall issue a certificate of compliance with the insulation and energy utilization standards of the State Building Code to the local inspection department or energy and insulation inspector and to the owner.

Sec. 9. Contract provisions. All sales contracts or other contracts executed for the installation of insulation or other energy utilization materials or equipment shall contain a provision that the work will meet the requirements of the State Building Code. Any guarantees relating to quality of materials, expected performance, quality of work, or equipment to be installed shall be in writing and a copy thereof shall be delivered to the owner and shall become a part of the contract.

Sec. 10. License revocation. Wilful or repeated violation of the State Building Code requirements as to insulation or energy utilization equipment or materials shall be a basis for revocation of the installer's license as a contractor under Chapter 87 of the General Statutes or as an installer under a local ordinance adopted pursuant to G.S. 153A-134 or G.S. 160A-194. Any inspection department or energy and insulation inspector having knowledge of such

violations shall bring them to the attention of the appropriate licensing authority for disciplinary action.

Sec. 11. Penalty. Wilful violation of any provision of this act shall constitute a misdemeanor punishable in the discretion of the court. In addition to or in lieu of such remedy, the city or county with jurisdiction or the State Commissioner of Insurance may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation.

Sec. 12. Effective date and termination. This act shall become effective upon ratification and shall remain in effect until July 1, 1979. The 1979 General Assembly shall review experience under this act and such other relevant information as may enable it to achieve the objectives of this act more effectively, and may enact such further legislation as appears desirable.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1348 CHAPTER 704

AN ACT TO AMEND G.S. 143B-267 TO REORGANIZE THE PAROLE COMMISSION OF THE DEPARTMENT OF CORRECTION BY ALLOWING THE GOVERNOR TO APPOINT IN HIS DISCRETION A COMMISSION CONSISTING OF FIVE MEMBERS, AND TO FURTHER DEFINE THE DUTIES OF THE PAROLE COMMISSION AND THE SECRETARY OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-267 is hereby rewritten to read as follows:

"§ 143B-267. *Parole Commission; members; selection; removal; chairman; compensation; quorum; services.*—The Parole Commission shall consist of five full-time members, and the Secretary of Correction who shall serve as an ex officio, nonvoting member. The five full-time members shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the commission. The terms of office of the five members presently serving on the commission shall expire on June 30, 1977. Thereafter, the terms of office of persons appointed by the Governor as members of the commission shall be for four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on the commission created by the resignation, removal, death or disability of a full-time member shall be for the balance of the unexpired term only.

The Governor shall have the authority to remove any member of the commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall designate a full-time member of the commission to serve as chairman of the commission at the pleasure of the Governor.

A majority of the full-time members of the commission shall constitute a quorum for the transaction of business.

The full-time members of the commission shall receive the salary fixed by the Governor and approved by the Advisory Budget Commission and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6.

All clerical and other services required by the commission shall be supplied by the Secretary of Correction."

Sec. 2. G.S. 148-57 is hereby rewritten to read as follows:

"§ 148-57. *Rules and regulations for parole consideration.*—The Parole Commission is hereby authorized and empowered to set up and establish rules and regulations in accordance with which prisoners eligible for parole consideration may have their cases reviewed and by which such proceedings may be initiated and considered. That the rules and regulations shall include but not be limited to, a plan whereby the Parole Commission may determine parole eligibility, and, when eligibility is so approved, provide for parole of a prisoner to a plan approved by the Secretary of the Department of Correction."

Sec. 3. G.S. 148-53 is hereby rewritten to read as follows:

"§ 148-53. *Investigators and investigations of cases of prisoners.*—For the purpose of investigating cases of prisoners serving both determinate and indeterminate sentences in the State prison, in prison camps, and on prison farms, the Department of Correction is hereby authorized and empowered to appoint an adequate staff of competent investigators, particularly qualified for such work, with such reasonable clerical assistance as may be required, who shall, under the direction of the Department of Correction, and under regulations prescribed by the Department of Correction after consultation with the commission, investigate all cases designated by the commission, and otherwise aid the commission in passing upon the question of the parole of prisoners, to the end that every prisoner in the custodial care of the State may receive full, fair and just consideration."

Sec. 4. G.S. 148-54 is hereby rewritten to read as follows:

"§ 148-54. *Parole supervisors provided for. Duties.*—The Department of Correction is hereby authorized to appoint a sufficient number of competent parole supervisors, who shall be particularly qualified for and adapted for the work required of them, and who shall under the direction of the Department of Correction, and under regulations prescribed by the Department of Correction after consultation with the commission, exercise supervision and authority over paroled prisoners, assist paroled prisoners, and those who are to be paroled in finding and retaining self-supporting employment, and to promote rehabilitation work with paroled prisoners, to the end that they may become law-abiding citizens. The supervisors shall also, under the direction of the Department of Correction, maintain frequent contact with paroled prisoners and find out whether or not they are observing the conditions of their paroles, and assist them in every possible way toward compliance with the conditions, and they shall perform such other duties in connection with paroled prisoners as the Department of Correction may require. The number of supervisors may be increased by the Department of Correction as and when the number of paroled prisoners to be supervised requires or justifies such increase."

Sec. 5. G.S. 148-4(6) as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is amended by deleting the words "programs, and other programs" on line 3 and inserting in lieu thereof the following: "programs, pre-release and after-care programs as may be provided for and administered by the Secretary of Correction and other programs."

Sec. 6. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1370 CHAPTER 705

AN ACT TO PROVIDE FOR THE CONSERVATION OF BEAVER.

The General Assembly of North Carolina enacts:

Section 1. For the purpose of conserving existing and future populations of beaver and protection of brood stocks, the Wildlife Resources Commission is authorized and empowered by regulation to fix the seasons during which beaver may lawfully be taken, to limit the numbers of beaver that may be taken or possessed during the open seasons, and to establish the lawful manner of taking beaver during open season.

Sec. 2. The Wildlife Resources Commission may by regulation require the carcasses or pelts of beaver to be affixed with individual tags of appropriate material and may prohibit the possession, sale, or purchase of any beaver carcass or pelt which is not tagged in accordance with such regulations.

Sec. 3. The Wildlife Resources Commission may regulate the methods and the types of traps that may be lawfully used in taking beaver; provided that it shall be lawful to use the Connibear 330 trap only when set in the water.

Sec. 4. Any violation of this act or of the regulations of the Wildlife Resources Commission authorized by this act shall constitute a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) and not more than two hundred dollars ($200.00), or by imprisonment for not longer than 30 days.

Sec. 5. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1448 CHAPTER 706

AN ACT TO REWRITE G.S. 130-169 SO AS TO ELIMINATE DUAL INSPECTION REQUIREMENT BY THE DEPARTMENT OF AGRICULTURE AND LOCAL HEALTH OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-169 as the same appears in 1974 Replacement Volume 3B of the General Statutes is hereby rewritten as follows:

"The provisions of this Article shall not apply to meat markets, abattoirs, poultry processing plants, and other places where meat, meat products, or poultry products are prepared, handled, stored, or sold which are under continuous inspection by the North Carolina Department of Agriculture and/or the United States Department of Agriculture."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1497 **CHAPTER 707**

AN ACT TO DELETE THE MANDATORY JURY REQUIREMENTS FOR DAMAGES UNDER G.S. 75-16.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-16, as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by deleting the words "by a jury" in the sixth line thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1498 **CHAPTER 708**

AN ACT TO AMEND CHAPTER 159B OF THE GENERAL STATUTES TO IMPLEMENT THE PROVISIONS OF ARTICLE V, SECTION 10OF THE NORTH CAROLINA CONSTITUTION.

The General Assembly of North Carolina enacts:

Section 1. This act is intended to implement the provisions of Article V, Section 10 of the North Carolina Constitution. All references in this act to portions of Chapter 159B of the General Statutes refer to 159B as amended by Chapter 385 of the 1977 Session Laws.

Sec. 2. G.S. 159B-3(6) is hereby rewritten to read as follows:

"(6) 'Project' shall mean any system or facilities for the generation, transmission and transformation, or any of them, of electric power and energy by any means whatsoever including, but not limited to, any one or more electric generating units situated at a particular site, or any interest in the foregoing, whether an undivided interest as a tenant in common or otherwise."

Sec. 3. Chapter 159B of the General Statutes is hereby amended by inserting a new G.S. 159B-12.1 to read as follows:

"§ 159B-12.1. *Joint ownership with other public or private entities engaged in generation, transmission or distribution of electric power for resale.*— Municipalities and joint agencies may jointly or severally own, operate and maintain projects with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale within this State or any state contiguous to this State. Any municipality or joint agency shall have for such purposes all powers conferred upon them by the provisions of this Chapter including the power to issue revenue bonds pursuant to the provisions of this Chapter to finance its share of the cost of any such project. The definitions and all other terms and provisions of this Chapter shall be construed so as to include such undivided ownership interest in order to fully effectuate the power and authority conferred by the foregoing provisions of this section.

Sec. 4. This act shall become effective upon the date of certification of an amendment to the Constitution of North Carolina as set out in Chapter 528 of the 1977 Session Laws. If this amendment is not so certified, this act shall not become effective.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 1507 **CHAPTER 709**

AN ACT TO AUTHORIZE THE DEAN OF THE SCHOOL OF LAW OF CAMPBELL COLLEGE TO APPOINT A MEMBER TO THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 164-14(a) as the same appears in the 1977 Replacement Volume 3D of the General Statutes is hereby amended on line 2 by deleting the figure "11" and inserting the figure "12"; and is further amended at the end thereof by adding the following:

"(11) One member, by the Dean of the School of Law of Campbell College."

Sec. 2. G.S. 164-14(c) as the same appears in the 1976 Replacement Volume 3D of the General Statutes is hereby amended on line 7 after the word "Association" by inserting the words ", the Dean of the School of Law of Campbell College".

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. B. 144 **CHAPTER 710**

AN ACT TO AMEND ARTICLE 25A OF CHAPTER 58 OF THE GENERAL STATUTES TO REQUIRE THE REINSURANCE FACILITY TO PROVIDE ADDITIONAL CEDING PRIVILEGES FOR MOTOR VEHICLE LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-248.33(b) is hereby amended by adding a new subsection to read as follows:

"(3) Whenever the additional ceding privileges are provided as in G.S. 58-248.33(b)(2) for any component of motor vehicle insurance, the same additional ceding privileges shall be available to 'all other' types of risks subject to the rating jurisdiction of the North Carolina Automobile Rate Administrative Office."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. B. 239 **CHAPTER 711**

AN ACT TO AMEND THE LAWS RELATING TO CRIMINAL PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A is amended by adding the following:

"ARTICLE 59.

"Maintenance of Order in the Courtroom.

"§ 15A-1031. *Custody and restraint of defendant and witnesses.*—A trial judge may order a defendant or witness subjected to physical restraint in the courtroom when the judge finds the restraint to be reasonably necessary to maintain order, prevent the defendant's escape, or provide for the safety of persons. If the judge orders a defendant or witness restrained, he must:

(1) Enter in the record out of the presence of the jury and in the presence of the person to be restrained and his counsel, if any, the reasons for his action; and

(2) Give the restrained person an opportunity to object; and

(3) Unless the defendant or his attorney objects, instruct the jurors that the restraint is not to be considered in weighing evidence or determining the issue of guilt.

If the restrained person controverts the stated reasons for restraint, the judge must conduct a hearing and make findings of fact.

"§ 15A-1032. *Removal of disruptive defendant.*—(a) A trial judge, after warning a defendant whose conduct is disrupting his trial, may order the defendant removed from the trial if he continues conduct which is so disruptive that the trial cannot proceed in an orderly manner. When practicable, the judge's warning and order for removal must be issued out of the presence of the jury.

(b) If the judge orders a defendant removed from the courtroom, he must:

(1) Enter in the record the reasons for his action; and

(2) Instruct the jurors that the removal is not to be considered in weighing evidence or determining the issue of guilt.

A defendant removed from the courtroom must be given the opportunity of learning of the trial proceedings through his counsel at reasonable intervals as directed by the court and must be given opportunity to return to the courtroom during the trial upon assurance of his good behavior.

"§ 15A-1033. *Removal of disruptive witnesses and spectators.*—The judge in his discretion may order any person other than a defendant removed from a courtroom when his conduct disrupts the conduct of the trial.

"§ 15A-1034. *Controlling access to the courtroom.*—(a) The presiding judge may impose reasonable limitations on access to the courtroom when necessary to ensure the orderliness of courtroom proceedings or the safety of persons present.

(b) The judge may order that all persons entering or any person present and choosing to remain in the courtroom be searched for weapons or devices that could be used to disrupt or impede the proceedings and may require that belongings carried by persons entering the courtroom be inspected. An order under this subsection must be entered on the record.

"§ 15A-1035. *Other powers.*—In addition to the use of the powers provided in this Article, a presiding judge may maintain courtroom order through the use of his contempt powers as provided in Chapter 5A, Contempt, and through the use of other inherent powers of the court.

(Articles 60 and 61 are as previously codified.)

"ARTICLE 62.

"Mistrial.

"§ 15A-1061. *Mistrial for prejudice to defendant.*—Upon motion of a defendant or with his concurrence the judge may declare a mistrial at any time during the trial. The judge must declare a mistrial upon the defendant's motion if there occurs during the trial an error or legal defect in the proceedings, or conduct inside or outside the courtroom, resulting in substantial and irreparable prejudice to the defendant's case. If there are two or more defendants, the mistrial may not be declared as to a defendant who does not make or join in the motion.

"§ 15A-1062. *Mistrial for prejudice to the State.*—Upon motion of the State, the judge may declare a mistrial if there occurs during the trial, either inside or outside the courtroom, misconduct resulting in substantial and irreparable prejudice to the State's case and the misconduct was by a juror or the defendant, his lawyer, or someone acting at the behest of the defendant or his lawyer. If there are two or more defendants, the mistrial may not be declared as to a defendant who does not join in the motion of the State if:

(1) Neither he, his lawyer, nor a person acting at his or his lawyer's behest participated in the misconduct; or

(2) The State's case is not substantially and irreparably prejudiced as to him.

"§ 15A-1063. *Mistrial for impossibility of proceeding.*—Upon motion of a party or upon his own motion, a judge may declare a mistrial if:

(1) It is impossible for the trial to proceed in conformity with law; or

(2) It appears there is no reasonable probability of the jury's agreement upon a verdict.

"§ 15A-1064. *Mistrial; finding of facts required.*—Before granting a mistrial, the judge must make finding of facts with respect to the grounds for the mistrial and insert the findings in the record of the case.

"§ 15A-1065. *Procedure following mistrial.*—When a mistrial is ordered, the judge must direct that the case be retained for trial or such other proceedings as may be proper.

(G.S. 15A-1066 to G.S. 15A-1070 reserved for future codification.)

"ARTICLE 63.

(G.S. 15A-1071 to G.S. 15A-1080 reserved for future codification.)

"ARTICLE 64.

(G.S. 15A-1081 to G.S. 15A-1100 reserved for future codification.)

"SUBCHAPTER XI. Trial Procedure in District Court.

"ARTICLE 65.

"§ 15A-1101. *Applicability of superior court procedure.*—Trial procedure in the district court is in accordance with the provisions of Subchapter XII, Trial in Superior Court, except for provisions:

(1) Relating to jury trial.

(2) Requiring recordation of proceedings unless they specify their applicability to the district court.

(3) That specify their applicability to superior court.

(G.S. 15A-1102 to G.S. 15A-1110 reserved for future codification.)

"ARTICLES 66 through 70.

(G.S. 15A-1111 to G.S. 15A-1200 reserved for future codification.)

"SUBCHAPTER XII. Trial Procedure in Superior Court.

"ARTICLE 71.

"Right to Trial by Jury.

"§ 15A-1201. *Right to trial by jury.*—In all criminal cases the defendant has the right to be tried by a jury of 12 whose verdict must be unanimous. In the district court the judge is the finder of fact in criminal cases, but the defendant has the right to appeal for trial de novo in superior court as provided in G.S. 15A-1431. In superior court all criminal trials in which the defendant enters a plea of not guilty must be tried before a jury.

(G.S. 15A-1202 to G.S. 15A-1210 reserved for future codification.)

"ARTICLE 72.

"Selecting and Impaneling the Jury.

"§ 15A-1211. *Selection procedure generally; role of judge; challenge to the panel; authority of judge to excuse jurors.*—(a) The provisions of Chapter 9 of the General Statutes, Jurors, pertinent to criminal cases apply except when this Chapter specifically provides a different procedure.

(b) The trial judge must decide all challenges to the panel and all questions concerning the competency of jurors.

(c) The State or the defendant may challenge the jury panel. A challenge to the panel:

(1) May be made only on the ground that the jurors were not selected or drawn according to law.

(2) Must be in writing.

(3) Must specify the facts constituting the ground of challenge.

(4) Must be made and decided before any juror is examined.

If a challenge to the panel is sustained, the judge must discharge the panel.

(d) The judge may excuse a juror without challenge by any party if he determines that grounds for challenge for cause are present.

"§ 15A-1212. *Grounds for challenge for cause.*—A challenge for cause to an individual juror may be made by any party on the ground that the juror:

(1) Does not have the qualifications required by G.S. 9-3.

(2) Is incapable by reason of mental or physical infirmity of rendering jury service.

(3) Has been or is a party, a witness, a grand juror, a trial juror, or otherwise has participated in civil or criminal proceedings involving a transaction which relates to the charge against the defendant.

(4) Has been or is a party adverse to the defendant in a civil action, or has complained against or been accused by him in a criminal prosecution.

(5) Is related by blood or marriage within the sixth degree to the defendant or the victim of the crime.

(6) Has formed or expressed an opinion as to the guilt or innocence of the defendant. It is improper for a party to elicit whether the opinion formed is favorable or adverse to the defendant.

(7) Is presently charged with a felony.

(8) As a matter of conscience, regardless of the facts and circumstances, would be unable to render a verdict with respect to the charge in accordance with the law of North Carolina.

(9) For any other cause is unable to render a fair and impartial verdict.

"§ 15A-1213. *Informing prospective jurors of case.*—Prior to selection of jurors, the judge must identify the parties and their counsel and briefly inform the prospective jurors, as to each defendant, of the charge, the date of the alleged offense, the name of any victim alleged in the pleading, the defendant's plea to the charge, and any affirmative defense of which the defendant has given pretrial notice as required by Article 52, Motions Practice. The judge may not read the pleadings to the jury.

"§ 15A-1214. *Selection of jurors; procedure.*—(a) The clerk, under the supervision of the presiding judge, must call jurors from the panel by a system of random selection which precludes advance knowledge of the identity of the next juror to be called. When a juror is called and he is assigned to the jury box, he retains the seat assigned until excused.

(b) The judge must inform the prospective jurors of the case in accordance with G.S. 15A-1213. He may briefly question prospective jurors individually or as a group concerning general fitness and competency to determine whether there is cause why they should not serve as jurors in the case.

(c) The prosecutor and the defense counsel, or the defendant if not represented by counsel, may personally question prospective jurors individually concerning their fitness and competency to serve as jurors in the case to determine whether there is a basis for a challenge for cause or whether to exercise a peremptory challenge. The prosecution or defense is not foreclosed from asking a question merely because the court has previously asked the same or similar question.

(d) The prosecutor must conduct his examination of the first 12 jurors seated and make his challenges for cause and exercise his peremptory challenges. If the judge allows a challenge for cause, or if a peremptory challenge is exercised, the clerk must immediately call a replacement into the box. When the prosecutor is satisfied with the 12 in the box, they must then be tendered to the defendant. Until the prosecutor indicates his satisfaction, he may make a challenge for cause or exercise a peremptory challenge to strike any juror, whether an original or replacement juror.

(e) Each defendant must then conduct his examination of the jurors tendered him, making his challenges for cause and his peremptory challenges. If a juror is excused, no replacement may be called until all defendants have indicated satisfaction with those remaining, at which time the clerk must call replacements for the jurors excused. The judge in his discretion must determine order of examination among multiple defendants.

(f) Upon the calling of replacement jurors, the prosecutor must examine the replacement jurors and indicate satisfaction with a completed panel of 12 before the replacement jurors are tendered to a defendant. Only replacement jurors may be examined and challenged. This procedure is repeated until all parties have accepted 12 jurors.

(g) If at any time after a juror has been accepted by a party, and before the jury is impaneled, it is discovered that the juror has made an incorrect statement during voir dire or that some other good reason exists:

(1) The judge may examine, or permit counsel to examine, the juror to determine whether there is a basis for challenge for cause.

(2) If the judge determines there is a basis for challenge for cause, he must excuse the juror or sustain any challenge for cause that has been made.

(3) If the judge determines there is no basis for challenge for cause, any party who has not exhausted his peremptory challenges may challenge the juror.

Any replacement juror called is subject to examination, challenge for cause, and peremptory challenge as any other unaccepted juror.

(h) In order for a defendant to seek reversal of the case on appeal on the ground that the judge refused to allow a challenge made for cause, he must have:

(1) Exhausted the peremptory challenges available to him;

(2) Renewed his challenge as provided in subsection (i) of this section; and

(3) Had his renewal motion denied as to the juror in question.

(i) A party who has exhausted his peremptory challenges may move orally or in writing to renew a challenge for cause previously denied if the party either:

(1) Had peremptorily challenged the juror; or

(2) States in the motion that he would have challenged that juror peremptorily had his challenges not been exhausted.

The judge may reconsider his denial of the challenge for cause, reconsidering facts and arguments previously adduced or taking cognizance of additional facts and arguments presented. If upon reconsideration the judge determines that the juror should have been excused for cause, he must allow the party an additional peremptory challenge.

(j) In capital cases the trial judge for good cause shown may direct that jurors be selected one at a time, in which case each juror must first be passed by the State. These jurors may be sequestered before and after selection.

"§ 15A-1215. *Alternate jurors.*—The judge may permit the seating of one or more alternate jurors. Alternate jurors must be sworn and seated near the jury with equal opportunity to see and hear the proceedings. They must attend the trial at all times with the jury, and obey all orders and admonitions of the judge. When the jurors are ordered kept together, the alternate jurors must be kept with them. If before final submission of the case to the jury, any juror dies, becomes incapacitated or disqualified, or is discharged for any other reason, an alternate juror becomes a juror, in the order in which selected, and serves in all respects as those selected on the regular trial panel. Alternate jurors receive the same compensation as other jurors and, unless they become jurors, must be discharged upon the final submission of the case to the jury.

"§ 15A-1216. *Impaneling jury.*—(a) After all jurors, including alternate jurors, have been selected, the clerk impanels the jury by instructing them as follows: 'Members of the jury, you have been sworn and are now impaneled to try the issue in the case of State of North Carolina versus _____. You will sit together, hear the evidence, and render your verdict accordingly.'

"§ 15A-1217. *Number of peremptory challenges.*—(a) Capital cases.

(1) Each defendant is allowed 14 challenges.

(2) The State is allowed 14 challenges for each defendant.

(b) Noncapital cases.

(1) Each defendant is allowed six challenges.

(2) The State is allowed six challenges for each defendant.

(c) Each party is entitled to one peremptory challenge for each alternate juror in addition to any unused challenges. (G.S. 15A-1218 to G.S. 15A-1220 reserved for future codification.)

"ARTICLE 73.

"Criminal Jury Trial in Superior Court.

"§ 15A-1221. *Order of proceedings in jury trial.*—The order of a jury trial, in general, is as follows:

(1) The defendant must be arraigned and must have his plea recorded, out of the presence of the prospective jurors, unless he has waived arraignment under G.S. 15A-945.

(2) The judge must inform the prospective jurors of the case in accordance with G.S. 15A-1213.

(3) The jury must be sworn, selected and impaneled in accordance with Article 72, Selecting and Impaneling Jury.

(4) Each party must be given the opportunity to make a brief opening statement, but the defendant may reserve his opening statement.

(5) The State must offer evidence.

(6) The defendant may offer evidence and, if he has reserved his opening statement, may precede his evidence with that statement.

(7) The State and the defendant may then offer successive rebuttals as provided in G.S. 15A-1226.

(8) At the conclusion of the evidence, the parties may make arguments to the jury in accordance with the provisions of G.S. 15A-1230.

(9) The judge must deliver a charge to the jury in accordance with the provisions of G.S. 15A-1231 and G.S. 15A-1232.

(10) The jury must retire to deliberate, and alternate jurors who have not been seated must be excused as provided in G.S. 15A-1215.

"§ 15A-1222. *Expression of opinion prohibited.*—The judge may not express during any stage of the trial, any opinion in the presence of the jury on any question of fact to be decided by the jury.

"§ 15A-1223. *Disqualification of judge.*—(a) A judge on his own motion may disqualify himself from presiding over a criminal trial or other criminal proceeding.

(b) A judge, on motion of the State or the defendant, must disqualify himself from presiding over a criminal trial or other criminal proceeding if he is:

(1) Prejudiced against the moving party or in favor of the adverse party; or

(2) A witness for or against one of the parties in the case; or

(3) Closely related to the defendant by blood or marriage; or

(4) For any other reason unable to perform the duties required of him in an impartial manner.

(c) A motion to disqualify must be in writing and must be accompanied by one or more affidavits setting forth facts relied upon to show the grounds for disqualification.

(d) A motion to disqualify a judge must be filed no less than five days before the time the case is called for trial unless good cause is shown for failure to file within that time. Good cause includes the discovery of facts constituting grounds for disqualification less than five days before the case is called for trial.

"§ 15A-1224. *Death or disability of trial judge.*—(a) If by reason of sickness or other disability a judge before whom the defendant is being tried is unable to continue presiding over the trial without the necessity of a continuance, he may in his discretion order a mistrial.

(b) If by reason of absence, death, sickness, or other disability, the judge before whom the defendant is being or has been tried is unable to perform the duties required of him before entry of judgment, and has not ordered a mistrial, any other judge assigned to the court may perform those duties, but if the other judge is satisfied that he cannot perform those duties because he did not preside at an earlier stage of the proceedings or for any other reason, he must order a mistrial.

"§ 15A-1225. *Exclusion of witnesses.*—Upon motion of a party the judge may order all or some of the witnesses other than the defendant to remain outside of the courtroom until called to testify, except when a minor child is called as a witness the parent or guardian may be present while the child is testifying even though his parent or guardian is to be called subsequently.

"§ 15A-1226. *Rebuttal evidence; additional evidence.*—(a) Each party has the right to introduce rebuttal evidence concerning matters elicited in the evidence in chief of another party. The judge may permit a party to offer new evidence

during rebuttal which could have been offered in the party's case in chief or during a previous rebuttal, but if new evidence is allowed, the other party must be permitted further rebuttal.

(b) The judge in his discretion may permit any party to introduce additional evidence at any time prior to verdict.

"§ 15A-1227. *Motion for dismissal.*—(a) A motion for dismissal for insufficiency of the evidence to sustain a conviction may be made at the following times:

(1) Upon close of the State's evidence.

(2) Upon close of all the evidence.

(3) After return of a verdict of guilty and before entry of judgment.

(4) After discharge of the jury without a verdict and before the end of the session.

(b) Failure to make the motion at the close of the State's evidence or after all the evidence is not a bar to making the motion at a later time as provided in subsection (a).

(c) The judge must rule on a motion to dismiss for insufficiency of the evidence before the trial may proceed.

(d) The sufficiency of all evidence introduced in a criminal case is reviewable on appeal without regard to whether a motion has been made during trial, as provided in G.S. 15A-1446(d)(5).

"§ 15A-1228. *Notes by the jury.*—Jurors may make notes and take them into the jury room during their deliberations. Upon objection of any party, the judge must instruct the jurors that notes may not be taken.

"§ 15A-1229. *View by jury.*—(a) The trial judge in his discretion may permit a jury view. If a view is ordered, the judge must order the jury to be conducted to the place in question in the custody of an officer. The officer must be instructed to permit no person to communicate with the jury on any subject connected with the trial, except as provided in subsection (b), nor to do so himself, and to return the jurors to the courtroom without unnecessary delay or at a specified time. The judge, prosecutor, and counsel for the defendant must be present at the view by the jury. The defendant is entitled to be present at the view by the jury.

(b) A judge in his discretion may permit a witness under oath to testify at the site of the jury view and point out objects and physical characteristics material to his testimony. The testimony must be recorded.

"§ 15A-1230. *Limitations on argument to the jury.*—(a) During a closing argument to the jury an attorney may not become abusive, inject his personal experiences, express his personal belief as to the truth or falsity of the evidence or as to the guilt or innocence of the defendant, or make arguments on the basis of matters outside the record except for matters concerning which the court may take judicial notice. An attorney may, however, on the basis of his analysis of the evidence, argue any position or conclusion with respect to a matter in issue.

(b) Length, number, and order of arguments allotted to the parties are governed by G.S. 84-14.

"§ 15A-1231. *Jury instructions.*—(a) At the close of the evidence or at an earlier time directed by the judge, any party may tender written instructions. A party tendering instructions must furnish copies to the other parties at the time he tenders them to the judge.

(b) On request of either party, the judge must, before the arguments to the jury, hold a recorded conference on instructions out of the presence of the jury. At the conference the judge must inform the parties of the offenses, lesser included offenses, and affirmative defenses on which he will charge the jury and must inform them of what, if any, parts of tendered instructions will be given. A party is also entitled to be informed, upon request, whether the judge intends to include other particular instructions in his charge to the jury. The failure of the judge to comply fully with the provisions of this subsection does not constitute grounds for appeal unless his failure, not corrected prior to the end of the trial, materially prejudiced the case of the defendant.

(c) After the arguments are completed, the judge must instruct the jury in accordance with G.S 15A-1232.

(d) All instructions given and tendered instructions which have been refused become a part of the record. Failure to object to an erroneous instruction or to the erroneous failure to give an instruction does not constitute a waiver of the right to appeal on that error in accordance with G.S. 15A-1446(d)(13).

"§ 15A-1232. *Jury instructions; explanation of law; opinion prohibited.*—In instructing the jury, the judge must declare and explain the law arising on the evidence. He is not required to state the evidence except to the extent necessary to explain the application of the law to the evidence. He must not express an opinion whether a fact has been proved.

"§ 15A-1233. *Review of testimony; use of evidence by the jury.*—(a) If the jury after retiring for deliberation requests a review of certain testimony or other evidence, the jurors must be conducted to the courtroom. The judge in his discretion, after notice to the prosecutor and defendant, may direct that requested parts of the testimony be read to the jury and may permit the jury to reexamine in open court the requested materials admitted into evidence. In his discretion the judge may also have the jury review other evidence relating to the same factual issue so as not to give undue prominence to the evidence requested.

(b) Upon request by the jury and with consent of all parties, the judge may in his discretion permit the jury to take to the jury room exhibits and writings which have been received in evidence. If the judge permits the jury to take to the jury room requested exhibits and writings, he may have the jury take additional material or first review other evidence relating to the same issue so as not to give undue prominence to the exhibits or writings taken to the jury room. If the judge permits an exhibit to be taken to the jury room, he must, upon request, instruct the jury not to conduct any experiments with the exhibit.

"§ 15A-1234. *Additional instructions.*—(a) After the jury retires for deliberation, the judge may give appropriate additional instructions to:

(1) Respond to an inquiry of the jury made in open court; or

(2) Correct or withdraw an erroneous instruction; or

(3) Clarify an ambiguous instruction; or

(4) Instruct the jury on a point of law which should have been covered in the original instructions.

(b) At any time the judge gives additional instructions, he may also give or repeat other instructions to avoid giving undue prominence to the additional instructions.

(c) Before the judge gives additional instructions, he must inform the parties generally of the instructions he intends to give and afford them an opportunity

to be heard. The parties upon request must be permitted additional argument to the jury if the additional instructions change, by restriction or enlargement, the permissible verdicts of the jury. Otherwise, the allowance of additional argument is within the discretion of the judge.

(d) All additional instructions must be given in open court and must be made a part of the record.

"§ 15A-1235. *Length of deliberations; deadlocked jury.*—(a) Before the jury retires for deliberation, the judge must give an instruction which informs the jury that in order to return a verdict, all 12 jurors must agree to a verdict of guilty or not guilty.

(b) Before the jury retires for deliberation, the judge may give an instruction which informs the jury that:

(1) Jurors have a duty to consult with one another and to deliberate with a view to reaching an agreement, if it can be done without violence to individual judgment;

(2) Each juror must decide the case for himself, but only after an impartial consideration of the evidence with his fellow jurors;

(3) In the course of deliberations, a juror should not hesitate to reexamine his own views and change his opinion if convinced it is erroneous; and

(4) No juror should surrender his honest conviction as to the weight or effect of the evidence solely because of the opinion of his fellow jurors, or for the mere purpose of returning a verdict.

(c) If it appears to the judge that the jury has been unable to agree, the judge may require the jury to continue its deliberations and may give or repeat the instructions provided in subsections (a) and (b). The judge may not require or threaten to require the jury to deliberate for an unreasonable length of time or for unreasonable intervals.

(d) If it appears that there is no reasonable possibility of agreement, the judge may declare a mistrial and discharge the jury.

"§ 15A-1236. *Admonitions to jurors; regulation and separation of jurors.*—(a) The judge at appropriate times must admonish the jurors that it is their duty:

(1) Not to talk among themselves about the case except in the jury room after their deliberations have begun;

(2) Not to talk to anyone else, or to allow anyone else to talk with them or in their presence about the case and that they must report to the judge immediately the attempt of anyone to communicate with them about the case;

(3) Not to form an opinion about the guilt or innocence of the defendant, or express any opinion about the case;

(4) To avoid reading, watching, or listening to accounts of the trial; and

(5) Not to talk during trial to parties, witnesses, or counsel.

The judge may also admonish them with respect to other matters which he considers appropriate.

(b) The judge in his discretion may direct that the jurors be sequestered.

(c) If the jurors are committed to the charge of an officer, he must be sworn by the clerk to keep the jurors together and not to permit any person to speak or otherwise communicate with them on any subject connected with the trial nor to do so himself, and to return the jurors to the courtroom as directed by the judge.

"§ 15A-1237. *Verdict.*—(a) The verdict must be in writing, signed by the foreman, and made a part of the record of the case.

(b) The verdict must be unanimous, and must be returned by the jury in open court.

(c) If the jurors find the defendant not guilty on the ground that he was insane at the time of the commission of the offense charged, their verdict must so state.

(d) If there are two or more defendants, the jury must return a separate verdict with respect to each defendant. If the jury agrees upon a verdict for one defendant but not another, it must return that verdict upon which it agrees.

(e) If there are two or more offenses for which the jury could return a verdict, it may return a verdict with respect to any offense, including a lesser included offense on which the judge charged, as to which it agrees.

"§ 15A-1238. *Polling the jury.*—Upon the motion of any party made after a verdict has been returned and before the jury has dispersed, the jury must be polled. The judge may also upon his own motion require the polling of the jury. The poll may be conducted by the judge or by the clerk by asking each juror individually whether the verdict announced is his verdict. If upon the poll there is not unanimous concurrence, the jury must be directed to retire for further deliberations.

"§ 15A-1239. *Judicial comment on verdict.*—The trial judge may not comment upon the verdict of a jury in open court in the presence or hearing of any member of the jury panel. If he does so, any defendant whose case is calendared for that session of court is entitled, upon motion, to a continuance of his case to a time when all members of the entire jury panel are no longer serving.

"§ 15A-1240. *Impeachment of the verdict.*—(a) Upon an inquiry into the validity of a verdict, no evidence may be received to show the effect of any statement, conduct, event, or condition upon the mind of a juror or concerning the mental processes by which the verdict was determined.

(b) The limitations in subsection (a) do not bar evidence concerning whether the verdict was reached by lot.

(c) After the jury has dispersed, the testimony of a juror may be received to impeach the verdict of the jury on which he served, subject to the limitations in subsection (a), only when it concerns:

(1) Matters not in evidence which came to the attention of one or more jurors under circumstances which would violate the defendant's constitutional right to confront the witnesses against him; or

(2) Bribery, intimidation, or attempted bribery or intimidation of a juror.

"§ 15A-1241. *Record of proceedings.*—(a) The trial judge must require that the reporter make a true, complete, and accurate record of all statements from the bench and all other proceedings except:

(1) Selection of the jury in noncapital cases;

(2) Opening statements and final arguments of counsel to the jury; and

(3) Arguments of counsel on questions of law.

(b) Upon motion of any party or on the judge's own motion, proceedings excepted under subdivisions (1) and (2) of subsection (a) must be recorded. The motion for recordation of jury arguments must be made before the commencement of any argument and if one argument is recorded all must be. Upon suggestion of improper argument, when no recordation has been requested

or ordered, the judge in his discretion may require the remainder to be recorded.

(c) When a party makes an objection to unrecorded statements or other conduct in the presence of the jury, upon motion of either party the judge must reconstruct for the record, as accurately as possible, the matter to which objection was made.

(d) The trial judge may review the accuracy of the reporter's record of the proceedings, but may not make substantive changes in the transcript concerning his charge, rulings, and comments without notice to the State, the defense, and the reporter. When any correction of a transcript is ordered made by a judge, each party is entitled to receive, upon request, a copy of the transcript indicating the text as submitted by the reporter and as changed by the judge. Upon motion of any party, the judge must afford the parties a hearing upon any change ordered by the judge.

"§ 15A-1242. *Defendant's election to represent himself at trial.*—A defendant may be permitted at his election to proceed in the trial of his case without the assistance of counsel only after the trial judge makes thorough inquiry and is satisfied that the defendant:

(1) Has been clearly advised of his right to the assistance of counsel, including his right to the assignment of counsel when he is so entitled;

(2) Understands and appreciates the consequences of this decision; and

(3) Comprehends the nature of the charges and proceedings and the range of permissible punishments.

"§ 15A-1243. *Standby counsel for defendant representing himself.*—When a defendant has elected to proceed without the assistance of counsel, the trial judge in his discretion may appoint standby counsel to assist the defendant when called upon and to bring to the judge's attention matters favorable to the defendant upon which the judge should rule upon his own motion.

(G.S. 15A-1244 to G.S. 15A-1250 reserved for future codification.)

"ARTICLE 74.

(G.S. 15A-1251 to G.S. 15A-1260 reserved for future codification.)

"ARTICLE 75.

(G.S. 15A-1261 to G.S. 15A-1280 reserved for future codification.)

"ARTICLE 76.

(G.S. 15A-1281 to G.S. 15A-1290 reserved for future codification.)

"ARTICLE 77.

(G.S. 15A-1291 to G.S. 15A-1300 reserved for future codification.)

"SUBCHAPTER XIII. Disposition of Defendants.

"ARTICLE 78.

"Order of Commitment to Imprisonment.

"§ 15A-1301. *Order of commitment to imprisonment when not otherwise specified.*—When a judicial official orders that a defendant be imprisoned he must issue an appropriate written commitment order.

(G.S. 15A-1302 to G.S. 15A-1310 reserved for future codification.)

"ARTICLE 79.

(G.S. 15A-1311 to G.S. 15A-1320 reserved for future codification.)

"ARTICLE 80.

"Defendants Found Not Guilty by Reason of Insanity.

"§ 15A-1321. *Civil commitment of defendants found not guilty by reason of insanity.*—When a defendant charged with a crime is found not guilty by reason of insanity by jury verdict or upon motion pursuant to G.S. 15A-959(c), the trial court, upon such additional hearing as it determines to be necessary, may direct that there be civil proceedings to determine whether the person should be involuntarily committed pursuant to Article 5A of Chapter 122 of the General Statutes. The trial judge may issue an order in the same manner, upon the same grounds, and with the same effect as an order issued by a clerk or magistrate pursuant to G.S. 122-58.3 or G.S. 122-58.18. Proceedings thereafter are in accordance with Article 5A, of Chapter 122 of the General Statutes.

"§ 15A-1322. *Temporary restraint.*—If the judge finds that there are reasonable grounds to believe that the defendant-respondent is mentally ill, as defined in G.S. 122-36, and is imminently dangerous to himself or others, and the judge determines upon appropriate findings of fact that it is appropriate to proceed under the provisions of this Article, he may order that the respondent be held under appropriate restraint pending proceedings under G.S. 15A-1321.

(G.S. 15A-1323 to G.S. 15A-1330 reserved for future codification.)

"ARTICLE 81.

"General Sentencing Provisions.

"§ 15A-1331. *Authorized sentences; conviction.*—(a) The criminal judgment entered against a person in either district or superior court may, unless the offense for which his guilt has been established is a capital offense, or unless a statute otherwise specifically provides, include a sentence in accordance with the provision of this Article to one or a combination of the following alternatives:

(1) Probation as authorized by Article 82, Probation, or a term of imprisonment as authorized by Article 83, Imprisonment; or

(2) A fine as authorized by Article 84, Fines; or

(3) Other punishment authorized or required by law.

(b) For the purpose of imposing sentence, a person has been convicted when he has been adjudged guilty or has entered a plea of guilty or no contest.

"§ 15A-1332. *Presentence reports.*—(a) Presentence Reports Generally. To obtain a presentence report, the court may order either a presentence investigation as provided in subsection (b) or a presentence commitment for study as provided in subsection (c).

(b) Presentence Investigation. The court may order a probation officer to make a presentence investigation of any defendant. The court may order the investigation only after conviction unless the defendant moves for an earlier presentence investigation. A motion for an earlier presentence investigation may be addressed only to the judge of the session of court for which the defendant's case is calendared or, if the case has not been calendared, to a resident superior court judge if the case is in the jurisdiction of the superior court or to the chief district court judge if the case is in the jurisdiction of the district court. When the court orders a presentence investigation, the probation officer must promptly investigate all circumstances relevant to sentencing and submit either a written report or an oral report either on the record or with defense counsel and the prosecutor present. The report may include sentence recommendations only if such recommendations are requested by the court.

(c) Presentence Commitment for Study. When the court desires more detailed information as a basis for determining the sentence to be imposed than can be provided by a presentence investigation, the court may, after conviction of a crime or crimes for which the defendant may be imprisoned for more than six months, and with the consent of the defendant, commit him for study to the Department of Correction for the shortest period necessary to complete the study, not to exceed 90 days. The period of commitment must end when the study is completed, and may not exceed 90 days. The department must conduct a complete study of a defendant committed to it under this subsection, inquiring into such matters as the defendant's previous delinquency or criminal experience, his social background, his capabilities, his mental, emotional and physical health, and the availability of resources or programs appropriate to the defendant. Upon completion of the study or the end of the 90-day period, whichever occurs first, the Department of Correction must release the defendant to the sheriff of the county in which his case is docketed. The department must forward the study to the clerk in that county, including whatever recommendations the department believes will be helpful to a proper resolution of the case. When a defendant is returned from a presentence commitment for study, the conditions of pretrial release which obtained for the defendant before the commitment continue until judgment is entered, unless the conditions are modified under the provisions of G.S. 15A-534(e).

"§ 15A-1333. *Availability of presentence report.*—(a) Presentence Reports Not Public Records. A written presentence report and the record of an oral presentence report are not public records and may not be made available to any person except as provided in this section.

(b) Access to Reports. The defendant, his counsel, the prosecutor, or the court may have access at any reasonable time to a written presentence report or to any record of an oral presentence report.

(c) Expunging Reports. On motion of the defendant, the court in its discretion may order a written presentence report or the record of an oral presentence report expunged from the court record.

"§ 15A-1334. *The sentencing hearing.*—(a) Time of Hearing. Unless the defendant waives the hearing, the court must hold a hearing on the sentence. Either the defendant or the State may, upon a showing which the judge determines to be good cause, obtain a continuance of the sentencing hearing.

(b) Proceeding at Hearing. The defendant at the hearing may make a statement in his own behalf. The defendant and prosecutor may present witnesses and arguments on facts relevant to the sentencing decision and may cross-examine the other party's witnesses. No person other than the defendant, his counsel, the prosecutor, and one making a presentence report may comment to the court on sentencing unless called as a witness by the defendant, the prosecutor, or the court. Formal rules of evidence do not apply at the hearing.

(c) Sentence Hearing in Other District. The judge who orders a presentence report may, in his discretion, direct that the sentencing hearing be held before him in another county or another judicial district during or after the session in which the defendant was convicted. If sentence is imposed in a county other than the one where the defendant was convicted, the clerk of the county where sentence is imposed must forward the records of the sentencing proceeding to the clerk of the county of conviction.

(d) Sentencing in capital cases shall be as set out in G.S. ____.

"§ 15A-1335. *Resentencing after appellate review.*—When a conviction or sentence imposed in superior court has been set aside on direct review or collateral attack, the court may not impose a new sentence for the same offense, or for a different offense based on the same conduct, which is more severe than the prior sentence less the portion of the prior sentence previously served.

(G.S. 15A-1336 to G.S. 15A-1340 reserved for future codification.)

"ARTICLE 82.

"Probation.

"§ 15A-1341. *Probation generally.*—(a) Use of Probation. A person who has been convicted of any noncapital criminal offense not punishable by a minimum term of life imprisonment may be placed on probation as provided in this Article.

(b) Supervised and Unsupervised Probation. The court may place a person on supervised or unsupervised probation. A person on unsupervised probation is subject to all incidents of probation except supervision by a probation officer.

(c) Election to Serve Sentence. Any person placed on probation may at any time during the probationary period elect to serve his suspended sentence of imprisonment in lieu of the remainder of his probation.

"§ 15A-1342. *Incidents of probation.*—(a) Period. The court may place an offender on probation for a maximum of five years. The probation remains conditional and subject to revocation during the period of probation imposed, unless terminated as provided in subsection (b) or G.S. 15A-1341(c).

(b) Early Termination. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection (a) if warranted by the conduct of the defendant and the ends of justice.

(c) Conditions; Suspended Sentence. When the court places an offender on probation, it must determine conditions of probation as provided in G.S. 15A-1343. In addition, it must impose a suspended sentence of imprisonment, determined as provided in Article 83, Imprisonment, which may be activated upon violation of conditions of probation.

(d) Mandatory Review of Probation. Each probation officer must bring all probationers assigned to him before a court with jurisdiction to review the probation when the probationer has served three years of a probationary period greater than three years. The court must review the case file of a probationer so brought before it and determine whether to terminate his probation.

(e) Out-of-State Supervision. Probationers are subject to out-of-state supervision under the provisions of G.S. 148-65.1.

(f) Appeal from Judgment of Probation. A defendant may seek post-trial relief from a judgment which includes probation notwithstanding the authority of the court to modify or revoke the probation.

(g) Invalid Conditions; Timing of Objection. A court may not revoke probation for violation of an invalid condition. The failure of a defendant to object to a condition of probation at the time it is imposed does not constitute a waiver of the right to object at a later time to the condition.

(h) Limitation on Jurisdiction to Alter or Revoke Unsupervised Probation. In the judgment placing a person on unsupervised probation, the judge may limit jurisdiction to alter or revoke the sentence under G.S. 15A-1344. When jurisdiction to alter or revoke is limited, the effect is as provided in G.S. 15A-1344(b).

"§ 15A-1343. *Conditions of probation.*—(a) In General. The court may impose conditions of probation reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so.

(b) Appropriate Conditions. When placing a defendant on probation, the court may, as a condition of the probation, require that during the period of probation the defendant comply with one or more of the following conditions:

(1) Not commit any criminal offense.

(2) Work faithfully at suitable employment or faithfully pursue a course of study or of vocational training that will equip him for suitable employment.

(3) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(4) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on probation.

(5) Support his dependents and meet other family responsibilities.

(6) Make restitution or reparation for loss or injury resulting from the crime for which the defendant is convicted. When restitution or reparation is a condition of the sentence, the amount must be limited to that supported by the evidence. The court may direct a probation officer to fix the manner of performing the restitution or reparation.

(7) Pay a fine authorized by Article 84, Fines.

(8) Refrain from possessing a firearm or destructive device or other dangerous weapon unless granted written permission by the court or the probation officer.

(9) Report to a probation officer at reasonable times and in a reasonable manner, as directed by the court or the probation officer.

(10) Permit the probation officer to visit him at reasonable times at his home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer.

(12) Answer all reasonable inquiries by the probation officer and obtain prior approval from the probation officer for any change in address or employment.

(13) Promptly notify the probation officer of any change in address or employment.

(14) Pay court costs and costs for appointed counsel or public defender to represent him in the case in which he was convicted.

(15) Submit at reasonable times to warrantless searches by a probation officer of his person, and of his vehicle and premises while he is present, for purposes reasonably related to his probation supervision. The court may not require as a condition of probation that the probationer submit to any other search that would otherwise be unlawful.

(16) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(17) Satisfy any other conditions reasonably related to his rehabilitation.

(c) Statement of Conditions. A defendant released on supervised probation must be given a written statement explicitly setting forth the conditions on which he is being released. If any modification of the terms of that probation is subsequently made, he must be given a written statement setting forth the modifications.

"§ 15A-1344. *Response to violations; alteration and revocation.*—(a) Authority to Alter or Revoke. Except as provided in subsection (b), probation may be reduced, terminated, continued, extended, modified, or revoked by any judge entitled to sit in the court which imposed probation and who is resident or presiding in the district where the sentence of probation was imposed, where the probationer violates probation, or where the probationer resides. The district attorney of the district in which probation was imposed must be given reasonable notice if the hearing is to be held in any other district.

(b) Limits on Jurisdiction to Alter or Revoke Unsupervised Probation. If the sentencing judge has entered an order to limit jurisdiction to consider a sentence of unsupervised probation under G.S. 15A-1342(h), a sentence of unsupervised probation may be reduced, terminated, continued, extended, modified, or revoked only by the sentencing judge or, if the sentencing judge is no longer on the bench, by a presiding judge in the court where the defendant was sentenced.

(c) Procedure On Altering or Revoking Probation; Returning Probationer to District Where Sentenced. When a judge reduces, terminates, extends, modifies, or revokes probation outside the county where the judgment was entered, the clerk must send a copy of the order and any other records to the court where probation was originally imposed. A court on its own motion may return the probationer to the district where probation was imposed or where the probationer resides for reduction, termination, continuation, extension, modification, or revocation of probation.

(d) Extension and Modification; Response to Violations. At any time prior to the expiration or termination of the probation period, the court may after notice and hearing and for good cause shown extend the period of probation up to the maximum allowed under G.S. 15A-1342(a) and may modify the conditions of probation. The hearing may be held in the absence of the defendant, if he fails to appear for the hearing after a reasonable effort to notify him. If a defendant violates a condition of probation at any time prior to the expiration or termination of the period of probation, the court, in accordance with the provisions of G.S. 15A-1345, may continue him on probation, with or without modifying the conditions, may place the defendant on special probation as provided in subsection (e), or, if continuation, modification, or special probation is not appropriate, may revoke the probation and activate the suspended sentence imposed at the time of initial sentencing. The court, before activating a sentence to imprisonment established when the defendant was placed on probation, may reduce the sentence. A sentence activated upon revocation of probation commences on the day probation is revoked and runs concurrently with any other period of probation, parole, or imprisonment to which the defendant is subject during that period unless the revoking judge specifies that it is to run consecutively with the other period.

(e) Special Probation in Response to Violation. When a defendant has violated a condition of probation, the court may modify his probation to place him on special probation as provided in this subsection. In placing him on special probation, the court may continue or modify the conditions of his probation and in addition require that he submit to a period or periods of imprisonment, either consecutive or nonconsecutive, at whatever time or intervals within the period of probation the court determines. If imprisonment is for consecutive periods, the confinement may be in either the custody of the Department of Correction or a local confinement facility. Nonconsecutive

periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. The total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed six months or one-fourth the maximum penalty allowed by law for the offense, whichever is less. No confinement other than an activated suspended sentence may be required beyond the period of probation or beyond two years of the time the special probation is imposed, whichever comes first.

(f) Revocation After Period of Probation. The court may revoke probation after the expiration of the period of probation if:

(1) Before the expiration of the period of probation the State has filed a written motion with the clerk indicating its intent to conduct a revocation hearing; and

(2) The court finds that the State has made reasonable effort to notify the probationer and to conduct the hearing earlier.

"§ 15A-1345. *Arrest and hearing on probation violation.*—(a) Arrest for Violation of Probation. A probationer is subject to arrest for violation of conditions of probation upon either an order for arrest issued by the court or upon the written request of a probation officer, accompanied by a written statement signed by the probation officer that the probationer has violated specified conditions of his probation. However, a probation revocation hearing under subsection (e) may be held without first arresting the probationer.

(b) Bail Following Arrest for Probation Violation. If at any time during the period of probation the probationer is arrested for a violation of any of the conditions of probation, he must be taken without unnecessary delay before a judicial official to have conditions of release pending a revocation hearing set in the same manner as provided in G.S. 15A-534.

(c) When Preliminary Hearing on Probation Violation Required. Unless the hearing required by subsection (e) is first held or the probationer waives the hearing, a preliminary hearing on probation violation must be held within five working days of an arrest of a probationer to determine whether there is probable cause to believe that he violated a condition of probation. Otherwise, the probationer must be released four working days after his arrest to continue on probation pending a hearing.

(d) Procedure for Preliminary Hearing on Probation Violation. The preliminary hearing on probation violation must be conducted by a judge who is sitting in the county where the probationer was arrested or where probation was imposed. If no judge is sitting in the county where the hearing would otherwise be held, the hearing may be held anywhere in the judicial district. The State must give the probationer notice of the hearing and its purpose, including a statement of the violations alleged. At the hearing the probationer may appear and speak in his own behalf, may present relevant information, and may, on request, personally question adverse informants unless the court finds good cause for not allowing confrontation. Formal rules of evidence do not apply at the hearing. If probable cause is found or if the probable cause hearing is waived, the probationer may be held for a revocation hearing, subject to release under the provisions of subsection (b). If the hearing is held and probable cause is not found, the probationer must be released to continue on probation.

(e) Revocation Hearing. Before revoking or extending probation, the court must, unless the probationer waives the hearing, hold a hearing to determine

whether to revoke or extend probation and must make findings to support the decision and a summary record of the proceedings. The State must give the probationer notice of the hearing and its purpose, including a statement of the violations alleged. The notice, unless waived by the probationer, must be given at least 24 hours before the hearing. At the hearing, evidence against the probationer must be disclosed to him, and the probationer may appear and speak in his own behalf, may present relevant information, and may confront and cross-examine adverse witnesses unless the court finds good cause for not allowing confrontation. The probationer is entitled to be represented by counsel at the hearing and, if indigent, to have counsel appointed. Formal rules of evidence do not apply at the hearing, but the record or recollection of evidence or testimony introduced at the preliminary hearing on probation violation are inadmissible as evidence at the revocation hearing. When the violation alleged is the nonpayment of fine or costs, the issues and procedures at the hearing include those specified in G.S. 15A-1364 for response to nonpayment of fine.

"§ 15A-1346. *Commencement of probation; multiple sentence.*—(a) Commencement of Probation. Except as provided in subsection (b), a period of probation commences on the day it is imposed and runs concurrently with any other period of probation, parole, or imprisonment to which the defendant is subject during that period.

(b) Consecutive and Concurrent Sentences. If a period of probation is being imposed at the same time a period of imprisonment is being imposed or if it is being imposed on a person already subject to an undischarged term of imprisonment, the period of probation may run either concurrently or consecutively with the term of imprisonment, as determined by the court. If not specified, it runs concurrently.

"§ 15A-1347. *Appeal from revocation of probation or imposition of special probation upon violation.*—When a district court judge, as a result of a finding of a violation of probation, activates a sentence or imposes special probation, the defendant may appeal to the superior court for a de novo revocation hearing. At the hearing the probationer has all rights and the court has all authority they have in a revocation hearing held before the superior court in the first instance. Appeals from lower courts to the superior courts from judgments revoking probation may be heard in term or out of term, in the county or out of the county by the resident superior court judge of the district or the superior court judge assigned to hold the courts of the district, or a judge of the superior court commissioned to hold court in the district, or a special superior court judge residing in the district. When a superior court judge, as a result of a finding of a violation of probation, activates a sentence or imposes special probation, either in the first instance or upon a de novo hearing after appeal from a district court, the defendant may appeal under G.S. 7A-27.

(G.S. 15A-1348 to G.S. 15A-1350 reserved for future codification.)

"ARTICLE 83.

"Imprisonment.

"§ 15A-1351. *Sentence of imprisonment; incidents; special probation.*—(a) The judge may sentence a defendant convicted of an offense for which the maximum penalty does not exceed 10 years to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of

imprisonment in the custody of the Department of Correction or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court determines. The total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed six months or one-fourth the maximum penalty allowed by law for the offense, whichever is less, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The period of probation, including the period of imprisonment required for special probation, may not exceed five years. The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences.

(b) A sentence to imprisonment must impose maximum term and may impose a minimum term. The judgment may state the minimum term or may state that a term constitutes both the minimum and maximum terms. If the judgment states no minimum term, the defendant becomes eligible for parole in accordance with G.S. 15A-1371(a).

(c) Reduction of Minimum. A superior court judge, or any district court judge if the offender is serving a sentence imposed in district court, sitting or resident in the district where the offender was sentenced may remove or reduce an imposed minimum term at any time upon motion of the Department of Correction and Paroles Commission. When the Department of Correction moves that a minimum sentence be removed or reduced, it must send a copy of the motion to the district attorney in the district where the defendant was convicted.

(d) Alternative to Minimum Term. In lieu of imposing a minimum term, the court may recommend to the Parole Commission a minimum period of imprisonment the offender should serve before being granted parole. The recommendation has the effect provided in G.S. 15A-1371(c).

(e) Youthful Offenders. If an offender is under the age of 21 years at the time of conviction, the court may sentence the offender as a youthful offender under the provisions of Article 3A of Chapter 148 of the General Statutes.

(f) Work Release. The sentencing court may recommend that the sentenced offender be granted work release as authorized in G.S. 148-33.1.

"§ 15A-1352. *Commitment to Department of Correction or local confinement facility.*—A person sentenced to imprisonment for a felony or a misdemeanor under this Article or for nonpayment of a fine under Article 84, Fines, must be committed for the term designated by the court to the custody of the Department of Correction or to a local confinement facility. If the sentence imposed is for a period less than 180 days, the commitment must be to a facility other than one maintained by the Department of Correction.

"§ 15A-1353. *Order of commitment when imprisonment imposed; release pending appeal.*—(a) When a sentence includes a term or terms of imprisonment, the court must issue an order of commitment setting forth the judgment. Unless otherwise specified in the order of commitment, the date of the order is the date service of the sentence is to begin.

(b) There must be included in the commitment, or in a separate order referred to in the commitment, any provisions with regard to release under

Article 26, Bail, if an appeal is taken, and the conditions of the release. If the commitment has been entered before appeal or the setting of the conditions for release, appropriate copies of those documents must be forwarded to the agency having custody of the defendant.

(c) Unless a later time is directed in the order of commitment or the defendant has been released from custody pursuant to Article 26, Bail, the sheriff must cause the defendant to be placed in the custody of the agency specified in the judgment on the day service of the sentence is to begin or as soon thereafter as practicable.

(d) A certified copy of the order of commitment, together with any separate order providing for release of the defendant pending appeal, must be delivered to the custodian of the confinement facility.

(e) When a defendant has been committed pursuant to this section:

(1) If appeal has been entered and conditions of release have been set as provided in Article 26, Bail, the agency having custody of the defendant may effect his release in the manner provided in G.S. 15A-537; or

(2) If appeal is entered and the conditions of release are not set until after the order of commitment has been issued, and the defendant has been placed in the custody of the agency directed therein, appropriate copies of the conditions of release must be certified by the clerk and forwarded to the agency, which then may effect his release in the manner provided in G.S. 15A-537.

"§ 15A-1354. *Concurrent and consecutive terms of imprisonment.*—(a) Authority of Court. When multiple sentences of imprisonment are imposed on a person at the same time or when a term of imprisonment is imposed on a person who is already subject to an undischarged term of imprisonment, including a term of imprisonment in another jurisdiction, the sentences may run either concurrently or consecutively, as determined by the court. If not specified, sentences shall run concurrently.

(b) Effect of Consecutive Terms. In determining the effect of consecutive sentences imposed under authority of this Article and the manner in which they will be served, the Department of Correction must treat the defendant as though he has been committed for a single term with the following incidents:

(1) The maximum prison sentence consists of the total of the maximum terms of the consecutive sentences; and

(2) The minimum term, if any, consists of the total of the minimum terms of the consecutive sentences.

"§ 15A-1355. *Calculation of terms of imprisonment.*—(a) Commencement of Sentence. The commencement date of a sentence of imprisonment under authority of this Article is as provided in G.S. 15A-1353(a), except when the sentence is a consecutive sentence. When it is a consecutive sentence, it commences to run when the State has custody of the defendant following completion of the prior sentence.

(b) Credit. To the extent that credit has not been given in the judgment or parole revocation order, the Department of Correction must give credit toward service of the maximum term and any minimum term of a sentence to imprisonment for:

(1) All time spent committed to or in confinement in any State or local correctional, mental, or other institution as a result of the charge that

culminated in the sentence or for all time spent in a mental institution following a civil commitment arising from the criminal proceedings; and

(2) All time spent in confinement in another jurisdiction as a result of conviction for an offense which is based on the same facts and which contains all the elements of the offense for which sentence is being served in this State or of a lesser included offense.

(c) Credit for Good Behavior. The Department of Correction may give credit toward service of the maximum term and any minimum term of imprisonment for allowances of time as provided in rules and regulations made under G.S. 148-11 and G.S. 148-13.

"ARTICLE 84.

"Fines.

"§ 15A-1361. *Authorized fines.*—A person who has been convicted of an offense may be ordered to pay a fine as provided by law.

"§ 15A-1362. *Imposition of fines.*—(a) General Criteria. In determining the method of payment of a fine, the court should consider the burden that payment will impose in view of the financial resources of the defendant.

(b) Installment or Delayed Payments. When a defendant is ordered to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine is payable forthwith.

(c) Nonpayment. When a defendant is ordered, other than as a condition of probation, to pay a fine, costs, or both, the court may impose at the same time a sentence to be served in the event that the fine is not paid. The court also may impose an order that the defendant appear, if he fails to make the required payment, at a specified time to show cause why he should not be imprisoned.

"§ 15A-1363. *Remission of a fine or costs.*—A defendant who has been required to pay a fine or costs, including a requirement to pay fine or costs as a condition of probation, or a prosecutor, may at any time petition the sentencing court for a remission or revocation of the fine or costs or any unpaid portion of it. If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine or costs no longer exist, that it would otherwise be unjust to require payment, or that the proper administration of justice requires resolution of the case, the court may remit or revoke the fine or costs or the unpaid portion in whole or in part or may modify the method of payment.

"§ 15A-1364. *Response to nonpayment.*—(a) Response to Default. When a defendant who has been required to pay a fine or costs or both defaults in payment or in any installment, the court, upon the motion of the prosecutor or upon its own motion, may require the defendant to appear and show cause why he should not be imprisoned or may rely upon a conditional show cause order entered under G.S. 15A-1362(c). If the defendant fails to appear, an order for his arrest may be issued.

(b) Imprisonment; Criteria. Following a requirement to show cause under subsection (a), unless the defendant shows inability to comply and that his nonpayment was not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the suspended sentence, if any, activated, or, if the law provides no term of imprisonment for the offense for which the defendant was convicted or if no suspended sentence was imposed, the court may order the defendant imprisoned

for a term not to exceed 30 days. The court, before activating a sentence of imprisonment, may reduce the sentence. The court may provide in its order that payment or satisfaction at any time of the fine and costs imposed by the court will entitle the defendant to his release from the imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

(c) Modification of Fine or Costs. If it appears that the default in the payment of a fine or costs is not attributable to failure on the defendant's part to make a good faith effort to obtain the necessary funds for payment, the court may enter an order:

(1) Allowing the defendant additional time for payment; or

(2) Reducing the amount of the fine or costs or of each installment; or

(3) Revoking the fine or costs or the unpaid portion in whole or in part.

(d) Organizations. When an organization is required to pay a fine or costs or both, it is the duty of the person or persons authorized to make disbursement of the assets of the organization to make payment from assets of the organization, and a failure to do so constitutes contempt of court.

"§ 15A-1365. *Judgment for fines docketed; lien and execution.*—When a defendant has defaulted in payment of a fine or costs, the judge may order that the judgment be docketed. Upon being docketed, the judgment becomes a lien on the real estate of the defendant in the same manner as do judgments in civil actions. Executions on docketed judgments may be stayed only when an appeal is taken and security is given as required in civil cases. If the judgment is affirmed on appeal to the appellate division, the clerk of the superior court, on receipt of the certificate from the appellate division, must issue execution on the judgment. No execution may issue if the defendant elects to serve the suspended sentence or, if no suspended sentence was imposed, a term of 30 days. (G.S. 15A-1366 to G.S. 15A-1370 reserved for future codification.)

"ARTICLE 85.

"Parole.

"§ 15A-1371. *Parole eligibility, consideration, and refusal.*—(a) Eligibility. Unless his sentence includes a minimum sentence, a prisoner serving a term other than life imprisonment or one included in a sentence of special probation imposed under authority of this Subchapter is eligible for release on parole at any time. A prisoner whose sentence includes a minimum term of imprisonment imposed under authority of this Subchapter is eligible for release on parole only upon completion of the service of that minimum term or one-fifth of the maximum penalty allowed by law for the offense for which the prisoner is sentenced, whichever is less, less any credit allowed under G.S. 15A-1355(b) and (c). Under this section, when the maximum allowed by law for the offense is life imprisonment, one fifth of the maximum is calculated as 20 years. A prisoner whose sentence includes a minimum sentence imposed only because required by law is eligible for release upon completion of one-fourth of the minimum time.

(b) Consideration for Parole. The Parole Commission must consider the desirability of parole for each person sentenced for a maximum term of 18 months or longer:

(1) At least 60 days prior to his eligibility for parole, if he is ineligible for parole until he has served more than a year; or

(2) At least 60 days prior to the expiration of the first year of the sentence, if he is eligible for parole at any time. Whenever the Parole Commission

will be considering for parole a prisoner who, if released, would have served less than half of the maximum term of his sentence, the Commission must notify the district attorney of the district where the prisoner was convicted at least 30 days in advance of considering the parole. If the district attorney makes a written request in such cases, the Commission must publicly conduct its consideration of parole. Following its consideration, the Commission must issue a formal order granting or denying parole. If parole is denied, the Commission must consider its decision while the prisoner is eligible for parole at least once a year until parole is granted and must issue a formal order granting or denying parole at least once a year.

(c) Statement of Reasons for Release Before Minimum. If parole is granted before the expiration of a minimum period of imprisonment imposed by the court under G.S. 15A-1351(b) or recommended by the court under G.S. 15A-1351(d), the Commission must state in writing the reasons why the imposed or recommended minimum was not followed.

(d) Criteria. The Parole Commission may refuse to release on parole a prisoner it is considering for parole if it believes:

(1) There is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or

(3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or

(4) There is a substantial risk that he would engage in further criminal conduct.

(e) Refusal of Parole. A prisoner who has been granted parole may elect to refuse parole and to serve the remainder of his term of imprisonment.

(f) Mandatory Parole at End of Felony Term. No later than six months prior to completion of his maximum term, the Parole Commission must parole every person convicted of a felony and sentenced to a maximum term of not less than 18 months of imprisonment, unless:

(1) The person is to serve a period of probation following his imprisonment;

(2) The person has been reimprisoned following parole as provided in G.S. 15A-1373(e); or

(3) The Parole Commission finds facts demonstrating a strong likelihood that the health or safety of the person or public would be endangered by his release at that time.

(g) Automatic Parole in Absence of Finding. A prisoner eligible for parole under subsection (a) and serving a sentence of not less than six months for a misdemeanor or serving a sentence not less than six months nor as great as 18 months for a felony must be released on parole when he completes service of one-third of his maximum sentence unless the Parole Commission finds in writing that:

(1) There is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or

(3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or

(4) There is a substantial risk that he would engage in further criminal conduct.

If a prisoner is released on parole by operation of this subsection, the term of parole is the unserved portion of the sentence to imprisonment, and the conditions of parole, unless otherwise specified by the Parole Commission, are those authorized in G.S. 15A-1374(b)(4) through (10).

"§ 15A-1372. *Length and effect of parole term.*—(a) Minimum Term of Parole. The term of parole for any person released from imprisonment may be no less than:

(1) One year, if the remainder of the maximum term of imprisonment is one year or more; or

(2) The remainder of the maximum term, if the remainder of the term of imprisonment is less than one year.

(b) Maximum Term of Parole. The maximum term of parole is the lesser of the following:

(1) The remainder of the maximum term; or

(2) Five years when the maximum prison sentence imposed is greater than 20 years; or

(3) Three years when the maximum prison sentence imposed is greater than 10 years but no greater than 20 years; or

(4) Two years when the maximum prison sentence imposed is not greater than 10 years.

(c) Termination of Sentence. When a parolee completes his period of parole, the sentence or sentences from which he was paroled are terminated.

"§ 15A-1373. *Incidents of parole.*—(a) Conditionality of Parole. Unless terminated sooner as provided in subsection (b), parole remains conditional and subject to revocation.

(b) Early Termination. The Parole Commission may terminate a period of parole and discharge the parolee at any time after the expiration of one year of successful parole if warranted by the conduct of the parolee and the ends of justice.

(c) Modification of Conditions. The Parole Commission may for good cause shown modify the conditions of parole at any time prior to the expiration or termination of the period for which the parole remains conditional.

(d) Effect of Violation. If the parolee violates a condition at any time prior to the expiration or termination of the period, the Commission may continue him on the existing parole, with or without modifying the conditions, or, if continuation or modification is not appropriate, may revoke the parole as provided in G.S. 15A-1376 and reimprison the parolee for a term consistent with the following requirements:

(1) The recommitment must be for the unserved portion of the maximum term of imprisonment imposed by the court under G.S. 15A-1351, or six months, whichever is greater.

(2) The prisoner must be given credit against the term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1376.

(e) Re-parole. A prisoner who has been reimprisoned following parole may be re-paroled by the Parole Commission subject to the provisions which govern initial parole. In the event that a defendant serves the final six months of his maximum imprisonment as a result of being recommitted for violation of parole, he may not be required to serve a further period on parole.

(f) Timing of Revocation. The Parole Commission may revoke parole for violation of a condition during the period of parole. The Commission also may revoke following the period of parole if:

(1) Before the expiration of the period of parole, the Commission has recorded its intent to conduct a revocation hearing, and

(2) The Commission finds that every reasonable effort has been made to notify the parolee and conduct the hearing earlier.

"§ 15A-1374. *Conditions of parole.*—(a) In General. The Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released.

(b) Appropriate Conditions. As conditions of parole, the Commission may require that the parolee comply with one or more of the following conditions:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip him for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on parole.

(4) Support his dependents and meet other family responsibilities.

(5) Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the Commission or the parole officer.

(6) Report to a parole officer at reasonable times and in a reasonable manner, as directed by the Commission or the parole officer.

(7) Permit the parole officer to visit him at reasonable times at his home or elsewhere.

(8) Remain within the geographic limits fixed by the Commission unless granted written permission to leave by the Commission or the parole officer.

(9) Answer all reasonable inquiries by the parole officer and obtain prior approval from the parole officer for any change in address or employment.

(10) Promptly notify the parole officer of any change in address or employment.

(11) Submit at reasonable times to searches of his person by a parole officer for purposes reasonably related to his parole supervision. The Commission may not require as a condition of parole that the parolee submit to any other searches that would otherwise be unlawful.

(12) Satisfy other conditions reasonably related to his rehabilitation.

"§ 15A-1375. *Commencement of parole; multiple sentences.*—A period of parole commences on the day the prisoner is released from imprisonment. Periods of parole run concurrently with any federal or state prison, jail, probation, or parole term to which the defendant is subject during the period.

"§ 15A-1376. *Arrest and hearing on parole violation.*—(a) Arrest for Violation of Parole. A parolee is subject to arrest for violation of conditions of parole only upon the issuance of an order of temporary or conditional revocation of parole by the Parole Commission. However, a parole revocation hearing under subsection (e) may be held without first arresting the parolee.

(b) When and Where Preliminary Hearing on Parole Violation Required. Unless the hearing required by subsection (e) is first held or the parolee waives the hearing, a preliminary hearing on parole violation must be held reasonably near the place of the alleged violation or arrest and within four working days of the arrest of a parolee to determine whether there is probable cause to believe that he violated a condition of parole. Otherwise, the parolee must be released four working days after his arrest to continue on parole pending a hearing.

(c) Officers to Conduct Hearing. The preliminary hearing on parole violation must be conducted by a judicial official, or by a hearing officer designated by the Parole Commission. No person employed by the Department of Correction may serve as a hearing officer at a hearing provided in this section unless he is a member of the Parole Commission or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing on Parole Violation. The Department of Correction must give the parolee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the parolee may appear and speak in his own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the court finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the parolee violated his parole, he must summarize the reasons for his determination and the evidence he relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the parolee may be held in the custody of the Department of Correction to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e).

(e) Revocation Hearing. Before finally revoking parole, the Parole Commission must, unless the parolee waived the hearing or the time limit, provide a hearing within 45 days of the parolee's reconfinement to determine whether to revoke parole finally. The hearing is governed by the provisions of Article 3 of Chapter 150A of the General Statutes except:

(1) The parolee is entitled to appear and speak in his own behalf and to confront and cross-examine adverse witnesses unless good cause is found for not allowing confrontation; and

(2) The hearing examiner must meet the requirements of subsection (c).

"§ 15A-1377. *Appeal from revocation of parole.*—A person whose parole has been revoked may appeal the revocation under the provisions of Article 4 of Chapter 150A of the General Statutes.

(G.S. 15A-1378 to G.S. 15A-1380 reserved for future codification.)

"ARTICLE 86.

(G.S. 15A-1381 to G.S. 15A-1390 reserved for future codification.)

"ARTICLE 87.

(G.S. 15A-1391 to G.S. 15A-1400 reserved for future codification.)

"SUBCHAPTER XIV. Correction of Errors and Appeal.

"ARTICLE 88.

"Post-Trial Motions and Appeal.

"§ 15A-1401. *Post-trial motions and appeal.*—Relief from errors committed in criminal trials and proceedings and other post-trial relief may be sought by:

(1) Motion for appropriate relief, as provided in Article 89.

(2) Appeal and trial de novo in misdemeanor cases, as provided in Article 90.

(3) Appeal, as provided in Article 91.

(G.S. 15A-1402 to G.S. 15A-1410 reserved for future codification.)

"ARTICLE 89.

"Motion for Appropriate Relief and Other Post-Trial Relief.

"§ 15A-1411. *Motion for appropriate relief.*—(a) Relief from errors committed in the trial division, or other post-trial relief, may be sought by a motion for appropriate relief. Procedure for the making of the motion is as set out in G.S. 15A-1420.

(b) A motion for appropriate relief, whether made before or after the entry of judgment, is a motion in the original cause and not a new proceeding.

(c) The relief formerly available by motion in arrest of judgment, motion to set aside the verdict, motion for new trial, post conviction proceedings, *coram nobis* and all other post-trial motions is available by motion for appropriate relief. The availability of relief by motion for appropriate relief is not a bar to relief by writ of habeas corpus.

"§ 15A-1412. *Provisions of article procedural.* The provision in this Article for the right to seek relief by motion for appropriate relief is procedural and is not determinative of the question of whether the moving party is entitled to the relief sought or to other appropriate relief.

"§ 15A-1413. *Trial judges empowered to act.*—(a) A motion for appropriate relief made pursuant to G.S. 15A-1415 may be heard and determined in the trial division by any judge who is empowered to act in criminal matters in the judicial district and trial division in which the judgment was entered.

(b) The judge who presided at the trial is empowered to act upon a motion for appropriate relief made pursuant to G.S. 15A-1414. He may act even though he is in another district or even though his commission has expired.

(c) When a motion for appropriate relief may be made before a judge who did not hear the case, he may, if it is practicable to do so, refer all or a part of the matter for decision to the judge who heard the case.

"§ 15A-1414. *Motion by defendant for appropriate relief made within 10 days after verdict.*—(a) After the verdict but not more than 10 days after entry of judgment, the defendant by motion may seek appropriate relief for any error committed during or prior to the trial.

(b) Unless included in G.S. 15A-1415, all errors, including but not limited to the following, must be asserted within 10 days after entry of judgment:

(1) Any error of law, including the following:

a. The court erroneously failed to dismiss the charge prior to trial pursuant to G.S. 15A-954.

b. The court's ruling was contrary to law with regard to motions made before or during the trial, or with regard to the admission or exclusion of evidence.

c. The evidence, at the close of all the evidence, was insufficient to justify submission of the case to the jury, whether or not a motion so asserting was made before verdict.

d. The court erroneously instructed the jury.

(2) The verdict is contrary to the weight of the evidence.

(3) For any other cause the defendant did not receive a fair and impartial trial.

(c) The motion may be made and acted upon in the trial court whether or not notice of appeal has been given.

"§ 15A-1415. *Grounds for appropriate relief which may be asserted by defendant after verdict and without limitation as to time.*—(a) At any time after verdict, the defendant by motion may seek appropriate relief upon any of the grounds enumerated in this section.

(b) The following are the only grounds which the defendant may assert by a motion for appropriate relief made more than 10 days after entry of judgment:

(1) The acts charged in the criminal pleading did not at the time they were committed constitute a violation of criminal law.

(2) The trial court lacked jurisdiction over the person of the defendant or over the subject matter.

(3) The conviction was obtained in violation of the Constitution of the United States or the Constitution of North Carolina.

(4) The defendant was convicted or sentenced under a statute that was in violation of the Constitution of the United States or the Constitution of North Carolina.

(5) The conduct for which the defendant was prosecuted was protected by the Constitution of the United States or the Constitution of North Carolina.

(6) Evidence is available which was unknown or unavailable to the defendant at the time of the trial, which could not with due diligence have been discovered or made available at that time, and which has a direct and material bearing upon the guilt or innocence of the defendant.

(7) There has been a significant change in law, either substantive or procedural, applied in the proceedings leading to the defendant's conviction or sentence, and retroactive application of the changed legal standard is required.

(8) The sentence imposed was unauthorized at the time imposed, exceeded the maximum authorized by law, was illegally imposed, or is otherwise invalid as a matter of law.

(9) The defendant is in confinement and is entitled to release because his sentence has been fully served.

"§ 15A-1416. *Motion by the State for appropriate relief.*—(a) After the verdict but not more than 10 days after entry of judgment, the State by motion may seek appropriate relief for any error which it may assert upon appeal.

(b) At any time after verdict the State may make a motion for appropriate relief for:

(1) The imposition of sentence when prayer for judgment has been continued and grounds for the imposition of sentence are asserted.

(2) The initiation of any proceeding authorized under Article 82, Probation; Article 83, Imprisonment; and Article 84, Fines with regard to the modification of sentences. The procedural provisions of those Articles are controlling.

"§ 15A-1417. *Relief available.*—(a) The following relief is available when the court grants a motion for appropriate relief:

(1) New trial on all or any of the charges.

(2) Dismissal of all or any of the charges.

(3) The relief sought by the State pursuant to G.S. 15A-1416.

(4) Any other appropriate relief.

(b) When relief is granted in the trial court and the offense is divided into degrees or necessarily includes lesser offenses, and the court is of the opinion that the evidence does not sustain the verdict but is sufficient to sustain a finding of guilty of a lesser degree or of a lesser offense necessarily included in the one charged, the court may, with consent of the State, accept a plea of guilty to the lesser degree or lesser offense.

(c) If resentencing is required, the trial division may enter an appropriate sentence. If a motion is granted in the appellate division and resentencing is required, the case must be remanded to the trial division for entry of a new sentence.

"§ 15A-1418. *Motion for appropriate relief in the appellate division.*—(a) When a case is in the appellate division for review, a motion for appropriate relief based upon grounds set out in G.S. 15A-1415 must be made in the appellate division. For the purpose of this section a case is in the appellate division when the jurisdiction of the trial court has been divested as provided in G.S. 15A-1448, or when a petition for a writ of certiorari has been granted. When a petition for a writ of certiorari has been filed but not granted, a copy or written statement of any motion made in the trial court, and of any disposition of the motion, must be filed in the appellate division.

(b) When a motion for appropriate relief is made in the appellate division, the appellate court must decide whether the motion may be determined on the basis of the materials before it, or whether it is necessary to remand the case to the trial division for taking evidence or conducting other proceedings. If the appellate court does not remand the case for proceedings on the motion, it may determine the motion in conjunction with the appeal and enter its ruling on the motion with its determination of the case.

(c) The order of remand must provide that the time periods for perfecting or proceeding with the appeal are tolled, and direct that the order of the trial division with regard to the motion be transmitted to the appellate division so that it may proceed with the appeal or enter an appropriate order terminating it.

"§ 15A-1419. *When motion for appropriate relief denied.*-(a) The following are grounds for the denial of a motion for appropriate relief:

(1) Upon a previous motion made pursuant to this Article, the defendant was in a position to adequately raise the ground or issue underlying the present motion but did not do so. This subdivision does not apply to a motion based upon deprivation of the right to counsel at the trial or upon failure of the trial court to advise the defendant of such right. This

subdivision does not apply when the previous motion was made within 10 days after entry of judgment.

(2) The ground or issue underlying the motion was previously determined on the merits upon an appeal from the judgment or upon a previous motion or proceeding in the courts of this State or a federal court, unless since the time of such previous determination there has been a retroactively effective change in the law controlling such issue.

(3) Upon a previous appeal the defendant was in a position to adequately raise the ground or issue underlying the present motion but did not do so.

(b) Although the court may deny the motion under any of the circumstances specified in this section, in the interest of justice and for good cause shown it may in its discretion grant the motion if it is otherwise meritorious.

"§ 15A-1420. *Motion for appropriate relief; procedure.*-(a) Form, Service, Filing.

(1) A motion for appropriate relief must:

a. Be made in writing unless it is made:

1. In open court;
2. Before the judge who presided at trial;
3. Before the end of the session if made in superior court; and
4. Within 10 days after entry of judgment;

b. State the grounds for the motion; and

c. Set forth the relief sought.

(2) A written motion for appropriate relief must be served in the manner provided in G.S. 15A-951(b). When the written motion is made more than 10 days after entry of judgment, service of the motion and a notice of hearing must be made not less than five working days prior to the date of the hearing. When a motion for appropriate relief is permitted to be made orally the court must determine whether the matter may be heard immediately or at a later time. If the opposing party, or his counsel if he is represented, is not present, the court must provide for the giving of adequate notice of the motion and the date of hearing to the opposing party, or his counsel if he is represented by counsel.

(3) A written motion for appropriate relief must be filed in the manner provided in G.S. 15A-951(c).

(b) Supporting Affidavits.

(1) A motion for appropriate relief made after the entry of judgment must be supported by affidavit or other documentary evidence if based upon the existence or occurrence of facts which are not ascertainable from the records and any transcript of the case or which are not within the knowledge of the judge who hears the motion.

(2) The opposing party may file affidavits or other documentary evidence.

(c) Hearings, Showing of Prejudice; Findings.

(1) Any party is entitled to a hearing on questions of law or fact arising from the motion and any supporting or opposing information presented unless the court determines that the motion is without merit. The court must determine, on the basis of these materials and the requirements of this subsection, whether an evidentiary hearing is required to resolve questions of fact.

(2) An evidentiary hearing is not required when the motion is made in the trial court pursuant to G.S. 15A-1414, but the court may hold an evidentiary hearing if it is appropriate to resolve questions of fact.

(3) The court must determine the motion without an evidentiary hearing when the motion and supporting and opposing information present only questions of law.

(4) If the court cannot rule upon the motion without the hearing of evidence, it must conduct a hearing for the taking of evidence, and must make findings of fact. The defendant has a right to be present at the evidentiary hearing and to be represented by counsel. A waiver of the right to be present must be in writing.

(5) If an evidentiary hearing is held, the moving party has the burden of proving by a preponderance of the evidence every fact essential to support the motion.

(6) A defendant who seeks relief by motion for appropriate relief must show the existence of the asserted ground for relief. Relief must be denied unless prejudice appears, in accordance with G.S. 15A-1443.

(7) The court must rule upon the motion and enter its order accordingly. When the motion is based upon an asserted violation of the rights of the defendant under the Constitution or laws or treaties of the United States, the court must make and enter conclusions of law and a statement of the reasons for its determination to the extent required, when taken with other records and transcripts in the case, to indicate whether the defendant has had a full and fair hearing on the merits of the grounds so asserted.

(d) Action on Court's Own Motion. At any time that a defendant would be entitled to relief by motion for appropriate relief, the court may grant such relief upon its own motion. The court must cause appropriate notice to be given to the parties.

"§ 15A-1421. *Indigent defendants.*—The provisions of Chapter 7A of the General Statutes with regard to the appointment of counsel for indigent defendants are applicable to proceedings under this Article. The court also may make appropriate orders relieving indigent defendants of all or a portion of the costs of the proceedings.

"§ 15A-1422. *Review upon appeal.*—(a) The making of a motion for appropriate relief is not a prerequisite for asserting an error upon appeal.

(b) The grant or denial of relief sought pursuant to G.S. 15A-1414 is subject to appellate review only in an appeal regularly taken.

(c) The court's ruling on a motion for appropriate relief pursuant to G.S. 15A-1415 is subject to review:

(1) If the time for appeal from the conviction has not expired, by appeal.

(2) If an appeal is pending when the ruling is entered, in that appeal.

(3) If the time for appeal has expired and no appeal is pending, by writ of certiorari.

(d) There is no right to appeal from the denial of a motion for appropriate relief when the movant is entitled to a trial de novo upon appeal.

(e) When an error asserted upon appeal has also been the subject of a motion for appropriate relief, denial of the motion has no effect on the right to assert error upon appeal.

(G.S. 15A-1423 to G.S. 15A-1430 reserved for future codification.)

"ARTICLE 90.

"Appeals from Magistrates and District Court Judges.

"§ 15A-1431. *Appeals by defendants from magistrate and district court judge; trial de novo.*—(a) A defendant convicted before a magistrate may appeal for trial de novo before a district court judge without a jury.

(b) A defendant convicted in the district court before the judge may appeal to the superior court for trial de novo with a jury as provided by law.

(c) Within 10 days of entry of judgment, notice of appeal may be given orally in open court or in writing to the clerk. Within 10 days of entry of judgment, the defendant may withdraw his appeal and comply with the judgment. Upon expiration of the 10-day period, if an appeal has been entered and not withdrawn, the clerk must transfer the case to the appropriate court.

(d) A defendant convicted by a magistrate or district court judge is not barred from appeal because of compliance with the judgment, but notice of appeal after compliance must be given by the defendant in person to the magistrate or judge who heard the case or, if he is not available, notice must be given:

(1) Before a magistrate in the county, in the case of appeals from the magistrate; or

(2) During an open session of district court in the judicial district, in the case of appeals from district court.

The magistrate or district court judge must review the case and fix conditions of pretrial release as appropriate. If a defendant has paid a fine or costs and then appeals, the amount paid must be remitted to the defendant, but the judge, clerk or magistrate to whom notice of appeal is given may order the remission delayed pending the determination of the appeal.

(e) Any order of pretrial release remains in effect pending appeal by the defendant unless the judge modifies the order.

(f) Appeal pursuant to this section stays the execution of portions of the judgment relating to fine and costs. Appeal stays portions of the judgment relating to confinement when the defendant has complied with conditions of pretrial release.

(g) The defendant may withdraw his appeal at any time prior to calendaring of the case for trial de novo. The case is then automatically remanded to the court from which the appeal was taken, for execution of the judgment.

"§ 15A-1432. *Appeals by State from district court judge.*—(a) Unless the rule against double jeopardy prohibits further prosecution, the State may appeal from the district court judge to the superior court:

(1) When there has been a decision or judgment dismissing criminal charges as to one or more counts.

(2) Upon the granting of a motion for a new trial on the ground of newly discovered or newly available evidence but only on questions of law.

(b) When the State appeals pursuant to subsection (a) the appeal is by written motion specifying the basis of the appeal made within 10 days after the entry of the judgment in the district court. The motion must be filed with the clerk and a copy served upon the defendant.

(c) The motion may be heard by any judge of superior court having authority for the trial of criminal cases in the district. The State and the defendant are entitled to file briefs and are entitled to adequate time for their preparation, consonant with the expeditious handling of the appeal.

(d) If the superior court finds that a judgment, ruling, or order dismissing criminal charges in the district court was in error, it must reinstate the charges and remand the matter to district court for further proceedings. The defendant may appeal this order to the appellate division as in the case of other orders of the superior court.

(e) If the superior court finds that the order of the district court was correct, it must enter an order affirming the judgment of the district court. The State may appeal the order of the superior court to the appellate division upon certificate by the district attorney to the judge who affirmed the judgment that the appeal is not taken for the purpose of delay.

(G.S. 15A-1433 to G.S. 15A-1440 reserved for future codification.)

"ARTICLE 91.

"Appeal.

"§ 15A-1441. *Correction of errors by appellate division.*—Errors of law may be corrected upon appellate review as provided in this Article.

"§ 15A-1442. *Grounds for correction of error by appellate division.*—The following constitute grounds for correction of errors by the appellate division.

(1) Lack of Jurisdiction.
   a. The trial court lacked jurisdiction over the offense.
   b. The trial court did not have jurisdiction over the person of the defendant.

(2) Error in the Criminal Pleading. Failure to charge a crime, in that:
   a. The criminal pleading charged acts which at the time they were committed did not constitute a violation of criminal law; or
   b. The pleading fails to state essential elements of an alleged violation as required by G.S. 15A-924(a)(5).

(3) Insufficiency of the Evidence. The evidence was insufficient as a matter of law.

(4) Errors in Procedure.
   a. There has been a denial of pretrial motions or relief to which the defendant is entitled, so as to affect the defendant's preparation or presentation of his defense, to his prejudice.
   b. There has been a denial of a trial motion or relief to which the defendant is entitled, to his prejudice.
   c. There has been error in the admission or exclusion of evidence, to the prejudice of the defendant.
   d. There has been error in the judge's instructions to the jury, to the prejudice of the defendant.
   e. There has been a denial of a post-trial motion or relief to which the defendant is entitled, to his prejudice. This provision is subject to the provisions of G.S. 15A-1422.

(5) Constitutionally Invalid Procedure or Statute; Prosecution for Constitutionally Protected Conduct.
   a. The conviction was obtained by a violation of the Constitution of the United States or of the Constitution of North Carolina.
   b. The defendant was convicted under a statute that is in violation of the Constitution of the United States or the Constitution of North Carolina.

c. The conduct for which the defendant was prosecuted was protected by the Constitution of the United States or the Constitution of North Carolina.

(6) Other Errors of Law. Any other error of law was committed by the trial court to the prejudice of the defendant.

"§ 15A-1443. *Existence and showing of prejudice.*—(a) A defendant is prejudiced by errors relating to rights arising other than under the Constitution of the United States when there is a reasonable possibility that, had the error in question not been committed, a different result would have been reached at the trial out of which the appeal arises. The burden of showing such prejudice under this subsection is upon the defendant. Prejudice also exists in any instance in which it is deemed to exist as a matter of law or error is deemed reversible per se.

(b) A violation of the defendant's rights under the Constitution of the United States is prejudicial unless the appellate court finds that it was harmless beyond a reasonable doubt. The burden is upon the State to demonstrate, beyond a reasonable doubt, that the error was harmless.

(c) A defendant is not prejudiced by the granting of relief which he has sought or by error resulting from his own conduct.

"§ 15A-1444. *When defendant may appeal; certiorari.*—(a) A defendant who has entered a plea of not guilty to a criminal charge, and who has been found guilty of a crime, is entitled to appeal as a matter of right when final judgment has been entered.

(b) Procedures for appeal from the magistrate to the district court are as provided in Article 90, Appeals from Magistrates and from District Court Judges.

(c) Procedures for appeal from the district court to the superior court are as provided in Article 90, Appeals from Magistrates and from District Court Judges.

(d) Procedures for appeal to the appellate division are as provided in this Article, the rules of the appellate division, and Chapter 7A of the General Statutes. The appeal must be perfected and conducted in accordance with the requirements of those provisions.

(e) Except as provided in G.S. 15A-979, and except when a motion to withdraw a plea of guilty or no contest has been denied, the defendant is not entitled to appellate review as a matter of right when he has entered a plea of guilty or no contest to a criminal charge in the superior court, but he may petition the appellate division for review by writ of certiorari. If an indigent defendant petitions the appellate division for a writ of certiorari, the presiding superior court judge may in his discretion order the preparation of the record and transcript of the proceedings at the expense of the State.

(f) The ruling of the court upon a motion for appropriate relief is subject to review upon appeal or by writ of certiorari as provided in G.S. 15A-1422.

(g) Review by writ of certiorari is available when provided for by this Chapter, by other rules of law, or by rule of the appellate division.

"§ 15A-1445. *Appeal by the State.*—(a) Unless the rule against double jeopardy prohibits further prosecution, the State may appeal from the superior court to the appellate division:

(1) When there has been a decision or judgment dismissing criminal charges as to one or more counts.

(2) Upon the granting of a motion for a new trial on the ground of newly discovered or newly available evidence but only on questions of law.

(b) The State may appeal an order by the superior court granting a motion to suppress as provided in G.S. 15A-979.

"§ 15A-1446. *Requisites for preserving the right to appellate review.*—(a) Except as provided in subsection (d), error may not be asserted upon appellate review unless the error has been brought to the attention of the trial court by appropriate and timely objection or motion. No particular form is required in order to preserve the right to assert the alleged error upon appeal if the motion or objection clearly presented the alleged error to the trial court. Formal exceptions are not required, but when evidence is excluded a record must be made in the manner provided in G.S. 1A-1, Rule 43(c), in order to assert upon appeal error in the exclusion of that evidence.

(b) Failure to make an appropriate and timely motion or objection constitutes a waiver of the right to assert the alleged error upon appeal, but the appellate court may review such errors in the interest of justice if it determines it appropriate to do so.

(c) The making of post-trial motions is not a prerequisite to the assertion of error on appeal.

(d) Errors based upon any of the following grounds, which are asserted to have occurred, may be the subject of appellate review even though no objection, exception or motion has been made in the trial division.

(1) Lack of jurisdiction of the trial court over the offense of which the defendant was convicted.

(2) Lack of jurisdiction of the trial court over the person of the defendant.

(3) The criminal pleading charged acts which, at the time they were committed, did not constitute a violation of criminal law.

(4) The pleading fails to state essential elements of an alleged violation, as required by G.S. 15A-924(a)(5).

(5) The evidence was insufficient as a matter of law.

(6) The defendant was convicted under a statute that is in violation of the Constitution of the United States or the Constitution of North Carolina.

(7) The conviction was obtained in violation of the Constitution of the United States or the Constitution of North Carolina.

(8) The conduct for which the defendant was prosecuted was protected by the Constitution of the United States or the Constitution of North Carolina.

(9) Subsequent admission of evidence from a witness when there has been an improperly overruled objection to the admission of evidence on the ground that the witness is for a specified reason incompetent or not qualified or disqualified.

(10) Subsequent admission of evidence involving a specified line of questioning when there has been an improperly overruled objection to the admission of evidence involving that line of questioning.

(11) Questions propounded to a witness by the court or a juror.

(12) Rulings and orders of the court, not directed to the admissibility of evidence during trial, when there has been no opportunity to make an objection or motion.

(13) Error of law in the charge to the jury.

(14) The court has expressed to the jury an opinion as to whether a fact is fully or sufficiently proved.

(15) The defendant was not present at any proceeding at which his presence was required.

(16) Error occurred in the entry of the plea.

(17) The form of the verdict was erroneous.

(18) The sentence imposed was unauthorized at the time imposed, exceeded the maximum authorized by law, was illegally imposed, or is otherwise invalid as a matter of law.

(19) A significant change in law, either substantive or procedural, applies to the proceedings leading to the defendant's conviction or sentence, and retroactive application of the changed legal standard is required.

"§ 15A-1447. *Relief available upon appeal.*—(a) If the appellate court finds that there has been reversible error which denied the defendant a fair trial conducted in accordance with law, it must grant the defendant a new trial.

(b) If the appellate court finds that the facts charged in a pleading were not at the time charged a crime, the judgment must be reversed and the charge must be dismissed.

(c) If the appellate court finds that the evidence with regard to a charge is insufficient as a matter of law, the judgment must be reversed and the charge must be dismissed unless there is evidence to support a lesser-included offense. In that case the court may remand for trial on the lesser offense.

(d) If the appellate court affirms only some of the charges, or if it finds error relating only to the sentence, it may direct the return of the case to the trial court for the imposition of an appropriate sentence.

(e) If the appellate court affirms one or more of the charges, but not all of them, and makes a finding that the sentence is sustained by the charge or charges which are affirmed and is appropriate, the court may affirm the sentence.

(f) If the appellate court finds that there is an error with regard to the sentence which may be corrected without returning the case to the trial division for that purpose, it may direct the entry of the appropriate sentence.

(g) If the appellate court finds that there has been reversible error and the rule against double jeopardy prohibits further prosecution, it must dismiss the charges with prejudice.

"§ 15A-1448. *Procedures for appeal.*—(a) Time for Entry of Appeal, Jurisdiction Over the Case.

(1) A case remains open for the taking of an appeal to the appellate division for a period of 10 days after the entry of judgment.

(2) When a motion for appropriate relief is made during the 10-day period, the case remains open for the taking of an appeal until the expiration of 10 days after the court has ruled on the motion.

(3) The jurisdiction of the trial court with regard to the case is divested, except as to actions authorized by G.S. 15A-1453, when notice of appeal has been given and

a. The period described in (1) and (2) has expired; or

b. No motion for appropriate relief is pending and the parties file written consent that the case be transferred immediately to the appellate division; or

c. Thirty days after the making of a motion for appropriate relief there has been no ruling and the appealing party files with the clerk a written request that the case be transferred immediately to the appellate division.

(4) For the purpose of computing time limitations for settling of the record on appeal, docketing the appeal, or other steps in the appellate process, the appeal is considered as 'taken' on the date the jurisdiction of the trial court is divested under subsection (3), or the date a transcript is delivered to the clerk of court, whichever is later.

(5) The right to appeal is not waived by withdrawal of an appeal if the appeal is reentered within the time specified in (1) and (2).

(6) The right to appeal is not waived by compliance with all or a portion of the judgment imposed. If the defendant appeals, the court may enter appropriate orders remitting any fines or costs which have been paid. The court may delay the remission pending the determination of the appeal.

(b) How and When Appeal of Right Taken.

(1) Oral notice of appeal may be given in open court:

a. At the time final judgment is entered; or

b. When the court rules upon a post-verdict motion for appropriate relief, if appeal is then available.

(2) Written notice of appeal may be filed with the clerk after final judgment and before the time for taking an appeal has expired.

(c) Certiorari. Petitions for writs of certiorari are governed by rules of the appellate division.

"§ 15A-1449. *Security for costs not required.*—In criminal cases no security for costs is required upon appeal to the appellate division.

"§ 15A-1450. *Withdrawal of appeal.*—An appeal may be withdrawn by filing with the clerk of superior court a written notice of the withdrawal, signed by the defendant and, if he has counsel, his attorney. The clerk must forward a copy of the notice to the clerk of the appellate division in which the case is pending. The appellate division may enter an appropriate order with regard to the costs of the appeal.

"§ 15A-1451. *Stay of sentence; bail; no stay when State appeals.*—(a) When a defendant has given notice of appeal:

(1) Payment of costs is stayed.

(2) Payment of a fine is stayed.

(3) Confinement is stayed only when the defendant has been released pursuant to Article 26, Bail.

(4) Probation or special probation is stayed.

(b) The effect of dismissal of charges is not stayed by an appeal by the State, and the defendant is free from such charges unless they are subsequently reinstated as a result of the determination upon appeal.

"§ 15A-1452. *Execution of sentence upon determination of appeal; compliance with directive of appellate court.*—(a) If an appeal is withdrawn, the clerk of superior court must enter an order reflecting that fact and directing compliance with the judgment.

(b) If the appellate division affirms the judgment in whole or in part, the clerk of superior court must file the directive of the appellate division and order compliance with its terms.

(c) If the appellate division orders a new trial or directs other relief or proceedings, the clerk must file the directive of the appellate court and bring the directive to the attention of the district attorney or the court for compliance with the directive.

"§ 15A-1453. *Ancillary actions during appeal.*—(a) While an appeal is pending in the appellate division, the court in which the defendant was convicted has continuing authority to act with regard to the defendant's release pursuant to Article 26, Bail.

(b) The appropriate court of the appellate division may direct that additional steps be taken in the trial court while the appeal is pending, including but not limited to:

(1) Appointment of counsel.

(2) Hearings with regard to matters relating to the appeal.

(3) Taking evidence or conducting other proceedings relating to motions for appropriate relief made in the appellate division, as provided in G.S. 15A-1418."

Sec. 2. The title of Subchapter VII of Chapter 15A is amended by striking out the word "Witnesses" and inserting in lieu thereof the word "Defendants". The title of Subchapter X of Chapter 15A is amended to read "General Trial Procedure."

Sec. 3 (a). The General Statutes of North Carolina are hereby amended by inserting a new chapter, Chapter 5A, "Contempt" to read as follows:

"CHAPTER 5A.

"Contempt.

"ARTICLE 1.

"Criminal Contempt.

"§ 5A-11. *Criminal contempt.*—(a) Except as provided in subsection (b), each of the following is criminal contempt:

(1) Willful behavior committed during the sitting of a court and directly tending to interrupt its proceedings.

(2) Willful behavior committed during the sitting of a court in its immediate view and presence and directly tending to impair the respect due its authority.

(3) Willful disobedience of, resistance to, or interference with a court's lawful process, order, directive, or instruction or its execution.

(4) Willful refusal to be sworn or affirmed as a witness, or, when so sworn or affirmed, willful refusal to answer any legal and proper question when the refusal is not legally justified.

(5) Willful publication of a report of the proceedings in a court that is grossly inaccurate and presents a clear and present danger of imminent and serious threat to the administration of justice, made with knowledge that it was false or with reckless disregard of whether it was false. No person, however, may be punished for publishing a truthful report of proceedings in a court.

(6) Willful or grossly negligent failure by an officer of the court to perform his duties in an official transaction.

(7) Willful or grossly negligent failure to comply with schedules and practices of the court resulting in substantial interference with the business of the court.

(8) Willful refusal to testify or produce other information upon the order of a judge acting pursuant to Article 61 of Chapter 15A, Granting of Immunity to Witnesses.

(9) Willful communication with a juror in an improper attempt to influence his deliberations.

(10) Any other act or omission specified elsewhere in the General Statutes of North Carolina as grounds for criminal contempt.

The grounds for criminal contempt specified here are exclusive, regardless of any other grounds for criminal contempt which existed at common law.

(b) No person may be held in contempt under this section on the basis of the content of any broadcast, publication, or other communication unless it presents a clear and present danger of an imminent and serious threat to the administration of criminal justice.

(c) This section is subject to the provisions of G.S. 7A-276.1, Court orders prohibiting publication or broadcast of reports of open court proceedings or reports of public records banned.

"§ 5A-12. *Punishment; circumstances for fine or imprisonment; reduction of punishment; other measures.*—(a) A person who commits criminal contempt, whether direct or indirect, is subject to censure, imprisonment up to 30 days, fine not to exceed five hundred dollars ($500.00), or any combination of the three, except that a person who commits a contempt described in G.S. 5A-11(8) is subject to censure, imprisonment not to exceed six months, fine not to exceed five hundred dollars ($500.00), or any combination of the three and a person who has not been arrested who fails to comply with a nontestimonial identification order, issued pursuant to Article 14 of G.S. 15A is subject to censure, imprisonment not to exceed 90 days, fine not to exceed five hundred dollars ($500.00), or any combination of the three.

(b) Except for contempt under G.S. 5-11(5) or G.S. 5A-11(9), fine or imprisonment may not be imposed for criminal contempt, whether direct or indirect, unless:

(1) The act or omission was willfully contemptuous; or

(2) The act or omission was preceded by a clear warning by the court that the conduct is improper.

(c) The judicial official who finds a person in contempt may at any time withdraw a censure, terminate or reduce a sentence of imprisonment, or remit or reduce a fine imposed as punishment for contempt if warranted by the conduct of the contemnor and the ends of justice.

(d) A person held in criminal contempt under this Article may nevertheless, for the same conduct, be found in civil contempt under Article 2 of this Chapter, Civil Contempt. If a person is found in both civil contempt and criminal contempt for the same conduct, the total period of imprisonment is limited as provided in G.S. 5A-21(c).

(e) A person held in criminal contempt under G.S. 5A-11(9) may nevertheless, for the same conduct, be found guilty of a violation of G.S. 14-225.1, but he must be given credit for any imprisonment resulting from the contempt.

"§ 5A-13. *Direct and indirect criminal contempt; proceedings required.*—(a) Criminal contempt is direct criminal contempt when the act:

(1) Is committed within the sight or hearing of a presiding judicial official; and

(2) Is committed in, or in immediate proximity to, the room where proceedings are being held before the court; and

(3) Is likely to interrupt or interfere with matters then before the court.

The presiding judicial official may punish summarily for direct criminal contempt according to the requirements of G.S. 5A-14 or may defer adjudication and sentencing as provided in G.S. 5A-15. If proceedings for direct criminal contempt are deferred, the judicial official must, immediately following the conduct, inform the person of his intention to institute contempt proceedings.

(b) Any criminal contempt other than direct criminal contempt is indirect criminal contempt and is punishable only after proceedings in accordance with the procedure required by G.S. 5A-15.

"§ 5A-14. *Summary proceedings for contempt.*—(a) The presiding judicial official may summarily impose measures in response to direct criminal contempt when necessary to restore order or maintain the dignity and authority of the court and when the measures are imposed substantially contemporaneously with the contempt.

(b) Before imposing measures under this section, the judicial official must give the person charged with contempt summary notice of the charges and a summary opportunity to respond and must find facts supporting the summary imposition of measures in response to contempt. The facts must be established beyond a reasonable doubt.

"§ 5A-15. *Plenary proceedings for contempt.*—(a) When a judicial official chooses not to proceed summarily against a person charged with direct criminal contempt or when he may not proceed summarily, he may proceed by an order directing the person to appear before a judge at a reasonable time specified in the order and show cause why he should not be held in contempt of court. A copy of the order must be furnished to the person charged. If the criminal contempt is based upon acts before a judge which so involve him that his objectivity may reasonably be questioned, the order must be returned before a different judge.

(b) Proceedings under this section are before a district court judge unless a court superior to the district court issued the order, in which case the proceedings are before that court. Venue lies throughout the judicial district where the order was issued.

(c) The person ordered to show cause may move to dismiss the order.

(d) The judge is the trier of facts at the show cause hearing.

(e) The person charged with contempt may not be compelled to be a witness against himself in the hearing.

(f) At the conclusion of the hearing, the judge must enter a finding of guilty or not guilty. If the person is found to be in contempt, the judge must make findings of fact and enter judgment. The facts must be established beyond a reasonable doubt.

(g) The judge presiding over the hearing may appoint a prosecutor or, in the event of an apparent conflict of interest, some other member of the bar to represent the court in hearings for criminal contempt.

"§ 5A-16. *Custody of person charged with criminal contempt.*—(a) A judicial official may orally order that a person he is charging with direct criminal contempt be taken into custody and restrained to the extent necessary to assure his presence for summary proceedings or notice of plenary proceedings.

(b) If a judicial official who initiates plenary proceedings for contempt under G.S. 5A-15 finds, based on sworn statement or affidavit, probable cause to believe the person ordered to appear will not appear in response to the order, he may issue an order for arrest of the person, pursuant to G.S. 15A-305. A person arrested under this subsection is entitled to release under the provisions of Article 26, Bail, of Chapter 15A of the General Statutes.

"§ 5A-17. *Appeals.*—A person found in criminal contempt may appeal in the manner provided for appeals in criminal actions, except appeal from a finding of contempt by a judicial official inferior to a superior court judge is by hearing de novo before a superior court judge.

(G.S. 5A-18 to G.S. 5A-20 reserved for future codification)

"ARTICLE 2.

"Civil Contempt.

"§ 5A-21. *Civil contempt; imprisonment to compel compliance.*—(a) Failure to comply with an order of a court is a continuing civil contempt as long as:

(1) The order remains in force;

(2) The purpose of the order may still be served by compliance with the order; and

(3) The person to whom the order is directed is able to comply with the order or is able to take reasonable measures that would enable him to comply with the order.

(b) A judge may order a civil contemnor imprisoned as long as his civil contempt continues, unless the contempt is failure by a person not arrested for the crime to comply with a nontestimonial identification order issued pursuant to Article 14, Nontestimonial Identification Order, of Chapter 15A of the General Statutes. In that case, he may not be imprisoned more than 90 days unless he is arrested on probable cause.

(c) A person who is found in civil contempt under this Article may, nevertheless, for the same conduct, be found in criminal contempt under Article 1 of this Chapter, but the total period of imprisonment arising from the conduct may not exceed the greater of:

(1) The period during which the contemnor may be imprisoned for civil contempt; or

(2) The period of imprisonment provided in G.S. 5A-12(a).

"§ 5A-22. *Release when civil contempt no longer continues.*—(a) A person imprisoned for civil contempt must be released when his civil contempt no longer continues. The order of the court holding a person in civil contempt must specify how the person may purge himself of the contempt. Upon finding compliance with the specifications, the sheriff or other officer having custody may release the person without a further order from the court.

(b) On motion of the contemnor, the court must determine if he is subject to release and, on an affirmative determination, order his release. The motion must be directed to the judge who found civil contempt unless he is not available. Then the motion must be made to a judge of the same division in the same judicial district. The contemnor may also seek his release under other procedures available under the law of this State.

"§ 5A-23. *Proceedings for civil contempt.*—(a) Proceedings for civil contempt are either by the order of a judicial official directing the alleged contemnor to appear at a specified reasonable time and show cause why he should not be held in civil contempt or by the notice of a judicial official that the alleged

contemnor will be held in contempt unless he appears at a specified reasonable time and shows cause why he should not be held in contempt. The order or notice must be given at least five days in advance of the hearing unless good cause is shown. The order or notice may be issued on the motion and sworn statement or affidavit of one with an interest in enforcing the order, including a judge, and a finding by the judicial official of probable cause to believe there is civil contempt.

(b) Proceedings under this section are before a district court judge, unless a court superior to the district court issued the order in which case the proceedings are before that court. When the proceedings are before a superior court, venue is in the judicial district of the court which issued the order. Otherwise, venue is in the county where the order was issued.

(c) The person ordered to show cause may move to dismiss the order.

(d) The judge is the trier of facts at the show cause hearing.

(e) At the conclusion of the hearing, the judge must enter a finding for or against the alleged contemnor. If civil contempt is found, the judge must enter an order finding the facts constituting contempt and specifying the action which the contemnor must take to purge himself of the contempt.

(f) A person with an interest in enforcing the order may present the case for a finding of civil contempt for failure to comply with an order.

(g) A judge conducting a hearing to determine if a person is in civil contempt may at that hearing, upon making the required findings, find the person in criminal contempt for the same conduct, regardless of whether imprisonment for civil contempt is proper in the case.

"§ 5A-24. *Appeals.*—A person found in civil contempt may appeal in the manner provided for appeals in civil actions.

"§ 5A-25. *As for contempt and civil contempt.*—Whenever the laws of North Carolina call for proceedings as for contempt, the proceedings are those for civil contempt set out in this Article."

Sec. 3 (b). Chapter 7A of the General Statutes of North Carolina is amended to insert a new Article 22A as follows:

"ARTICLE 22A.

"Prohibited Orders.

"§ 7A-276.1. *Court orders prohibiting publication or broadcast of reports of open court proceedings or reports of public records banned.*—No court shall make or issue any rule or order banning, prohibiting, or restricting the publication or broadcast of any report concerning any of the following: any evidence, testimony, argument, ruling, verdict, decision, judgment, or other matter occurring in open court in any hearing, trial, or other proceeding, civil or criminal; and no court shall issue any rule or order sealing, prohibiting, restricting the publication or broadcast of the contents of any public record as defined by any statute of this State, which is required to be open to public inspection under any valid statute, regulation, or rule of common law. If any rule or order is made or issued by any court in violation of the provisions of this statute, it shall be null and void and of no effect, and no person shall be punished for contempt for the violation of any such void rule or order.

Sec. 4. G.S. 7A-27(b) is amended by striking the words "or one entered in a post-conviction hearing under Article 22 of Chapter 15,".

Sec. 5. G.S. 7A-31(a) is amended by:

(a) Striking out of the first paragraph the words "and except a cause involving a review of post-conviction proceeding under Article 22, Chapter 15".

(b) Striking out of the second paragraph the words "or any cause involving review of a post-conviction proceeding".

Sec. 6. G.S. 7A-271(a)(3) is amended by striking out "G.S. 15-152" and by inserting "G.S. 15A-926".

Sec. 7. G.S. 7A-451 is amended to rewrite subdivision (a)(3) as follows:

"(3) A motion for appropriate relief under Chapter 15A of the General Statutes if the defendant has been convicted of a felony, has been fined five hundred dollars ($500.00) or more, or has been sentenced to a term of imprisonment."

G.S. 7A-451 is further amended to delete "G.S. 15-222" in subdivision (b)(6) and to insert: "Subchapter XIV of Chapter 15A of the General Statutes."

Sec. 8. G.S. 7A-451(a)(4) is amended to delete the comma following the word "probation" and to delete the words "if confinement is likely to be ajudged as a result of the hearing".

Sec. 9. G.S. 7A-452 is amended to delete the period at the end of the caption and to insert "; *compensation of standby counsel.*" G.S. 7A-452 is further amended by adding a new subsection (d) as follows:

"(d) Unless a public defender or assistant public defender is appointed to serve, the trial judge appointing standby counsel under G.S. 15A-1243 shall award reasonable compensation to be paid by the State."

Sec. 10. Amend G.S. 9-3, as the same appears in the 1975 Cumulative Supplement to 1969 Replacement Volume 1B of the General Statutes, by inserting in line 5 after the comma and before the word "who" the following: "who can hear and understand the English language,".

Sec. 11. Rewrite G.S. 9-15(c) as follows:

"(c) In civil cases if any juror has a suit pending and at issue in the court in which he is serving, he may be challenged for cause, and he shall be withdrawn from the trial panel, and may be withdrawn from the venire in the discretion of the presiding judge. In criminal cases challenges are governed by Article 72, Selecting and Impaneling the Jury, of Chapter 15A of the General Statutes."

Sec. 12. G.S. 9-17 is amended to add the following at the end of the first paragraph: "When sequestration of the jury is ordered in a criminal case, however, the State shall pay for all accommodations of jurors."

Sec. 13. G.S. 9-18, as the same appears in the 1969 Replacement Volume 1B of the General Statutes, is amended by rewriting the first line to read:

"§ 9-18. *Alternate jurors.*—(a) Civil Cases. Whenever the presiding judge deems it appro-" and by adding a new subsection (b) to read as follows:

"(b) Criminal cases. Procedures relating to alternate jurors in criminal cases are governed by Article 72, Selecting and Impaneling the Jury, of Chapter 15A of the General Statutes."

Sec. 14. Rewrite G.S. 9-21 as follows:

"§ 9-21. *Peremptory challenges in criminal cases governed by Chapter 15A.*—Peremptory challenges in criminal cases are governed by Article 72, Selecting and Impaneling the Jury, of Chapter 15A of the General Statutes."

Sec. 15. G.S. 14-2 is amended to delete the second sentence of the section.

Sec. 16. (a) Chapter 14 of the General Statutes of North Carolina is amended by inserting a new statute, G.S. 14-225.1, to read as follows:

"§ 14-225.1. *Harassment of and communication with jurors.*—(a) If a person, with intent to influence the official action of another as a juror, communicates with him other than as part of the proceedings in a case, or harasses or alarms him, he is guilty of a felony punishable by fine, imprisonment up to five years, or both. Conduct directed against the juror's spouse or other relative residing in the same household with the juror constitutes conduct directed against the juror.

(b) In this section 'juror' means a grand juror or a petit juror and includes a person who has been drawn or summoned to attend as a prospective juror."

(b) G.S. 14-226 is amended by deleting the words "juror or" in both places that it appears, and by deleting from the caption the words "jurors and".

Sec. 17. G.S. 15-196.3, as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is amended to delete the second line and to insert: "the minimum and maximum term of a".

Sec. 18. G.S. 15-205 as the same appears in the 1975 Cumulative Supplement to Volume 1C of the General Statutes is amended beginning on the third line thereof by placing a period after the word "Correction" and striking out from lines 3, 4, 5, and 6 the words "and shall report in writing thereon. He shall furnish to each person released on probation under his supervision a written statement of the conditions of probation and shall instruct him regarding the same."

Sec. 19. G.S. 15A-101 is amended to add new subdivisions as follows:

"Entry of judgment.—Judgment is entered when sentence is pronounced. Prayer for judgment continued upon payment of costs, without more, does not constitute the entry of judgment."

"Appeal.—When used in a general context, the term 'appeal' also includes appellate review upon writ of certiorari."

Sec. 20. G.S. 15A-279(e) is hereby amended by inserting after the word "order" the following: "pursuant to the provisions of G.S. 5A-12(a) and G.S. 5A-21(b)." G.S. 15A-279 is further amended by inserting therein two new subsections (f) and (g) to read as follows:

"(f) A nontestimonial identification order may not be issued against a person previously subject to a nontestimonial identification order unless it is based on different evidence which was not reasonably available when the previous order was issued.

(g) Resisting compliance with a nontestimonial identification order is not itself grounds for finding probable cause to arrest the suspect, but it may be considered with other evidence in making the determination whether probable cause exists."

Sec. 21. G.S. 15A-305(b)(4) is amended by deleting the words "or suspension of his sentence". G.S. 15A-305(b) is further amended by inserting the following subdivisions and renumbering the existing subdivision "(7)" as subdivision "(9)":

"(7) When a defendant fails to appear as required in a show cause order issued in a criminal proceeding.

(8) It is authorized by G.S. 5A-16 in connection with contempt proceedings.

Sec. 22. G.S. 15A-502(c) is rewritten to read as follows:

"(c) This section does not authorize the taking of photographs or fingerprints of a 'child' as defined for the purposes of G.S. 7A-278(2), unless the case has been transferred to the Superior Court Division pursuant to G.S. 7A-280."

Sec. 23. G.S. 15A-537 is rewritten to read as follows:

"§ 15A-537. *Persons authorized to effect release.*—(a) Following any authorization of release of any person in accordance with the provisions of this Article, any judicial official must effect the release of that person upon satisfying himself that the conditions of release have been met. In the absence of a judicial official, any law-enforcement officer or custodial official having the person in custody must effect the release upon satisfying himself that the conditions of release have been met, but law-enforcement and custodial agencies may administratively direct which officers or officials are authorized to effect release under this section. Satisfying oneself whether conditions of release are met includes determining if sureties are sufficiently solvent to meet the bond obligation, but no judicial official, officer, or custodial official may be held civilly liable for actions taken in good faith under this section.

(b) Upon release of the person in question, the person effecting release must file any bond, deposit, or mortgage and other papers pertaining to the release with the clerk of the court in which release was authorized.

(c) For the limited purposes of this section, any law-enforcement officer or custodial official may administer oaths to sureties and take other actions necessary in carrying out the duties imposed by this section. Any surety bond so taken is to be regarded in every respect as any other bail bond.

Sec. 24. Amend G.S. 15A-622(a) by adding a sentence at the end to read: "Challenges to the panel from which grand jurors were drawn are governed by the procedure in G.S. 15A-1211."

Sec. 25. G.S. 15A-959 is hereby amended by rewriting the catch line thereof to read as follows: "*Notice of defense of insanity; pretrial determination of insanity.*", and by inserting therein a new subsection (c) to read as follows:

"(c) Upon motion of the defendant and with the consent of the State the court may conduct a hearing prior to the trial with regard to the defense of insanity at the time of the offense. If the court determines that the defendant has a valid defense of insanity with regard to any criminal charge, it may dismiss that charge, with prejudice, upon making a finding to that effect. The court's denial of relief under this subsection is without prejudice to the defendant's right to rely on the defense at trial. If the motion is denied, no reference to the hearing may be made at the trial, and recorded testimony or evidence taken at the hearing is not admissible as evidence at the trial."

Sec. 26. G.S. 50-13.3(a) is rewritten to read: "(a) An order providing for the custody of a minor child is enforceable by proceedings for civil contempt and its disobedience may be punished by proceedings for criminal contempt, as provided in Chapter 5A, Contempt, of the General Statutes."

G.S. 50-13.4(f)(9) is rewritten to read:

"(9) An order for the payment of child support is enforceable by proceedings for civil contempt and its disobedience may be punished by proceedings for criminal contempt, as provided in Chapter 5A, Contempt, of the General Statutes."

G.S. 50-16.7(j) is rewritten to read:

"(j) An order for the payment of alimony or alimony pendente lite is enforceable by proceedings for civil contempt and its disobedience may be punished by proceedings for criminal contempt, as provided in Chapter 5A, Contempt, of the General Statutes."

Sec. 27. G.S. 148-28 is amended to rewrite the first two sentences of the section as follows: "When a sentenced offender is to be taken to the Central Prison at Raleigh, a sheriff or other appropriate officer of the county shall cause such prisoner to be delivered with the proper commitment papers to the warden of the Central Prison. A person under 16 years of age convicted of a felony shall not be imprisoned in the Central Prison at Raleigh unless:

(1) The person was convicted of a capital felony; or

(2) He has previously been imprisoned in a county jail or under the authority of the Department of Correction upon conviction of a felony."

Sec. 28. G.S. 148-29, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is amended to delete from the first line of the section the word "sentenced" and to insert: "to be taken".

Sec. 29. G.S. 148-33.1(b) is amended by striking out the following words: "Provided, in any case where the inmate being considered for work-release privileges has not yet served a fourth of his sentence if determinate or a fourth of his minimum sentence if indeterminate," and the colon preceding this phrase, and by inserting in lieu thereof a period and the following: "If the inmate is not eligible for parole,".

Sec. 30. G.S. 148-53, as the same appears in the 1975 Cumulative Supplement to the 1974 Replacement Volume 3C of the General Statutes, is amended to add a comma after the word "prisoners" in the second line and to delete the following phrase which reads: "serving both determinate and indeterminate sentences in the State prison, in prison camps, and on prison farms,".

Sec. 31. G.S. 162-42 is amended by striking out the last sentence thereof.

Sec. 32. G.S. 162-46 is rewritten to read as follows:

"§ 162-46. *Deductions from sentence allowed for good behavior.*—When a defendant has been sentenced to a facility other than one maintained by the Department of Correction, and has faithfully performed the duties assigned to him during his term of sentence, he is entitled to a deduction from the time of his sentence of five days for each month, and he shall be discharged when he has served his sentence, less the number of days he may be entitled to have deducted. The authorities having him in charge shall be the sole judges as to the faithful performance of the duties assigned to him. Should he escape or attempt to escape, he shall forfeit any deduction he may have been entitled to prior to that time."

Sec. 33. Chapter 5 of the General Statutes and all of Article 11 of Chapter 15 of the General Statutes and the following listed General Statutes are repealed:

G.S. 1-180	G.S. 15-197.1
G.S. 7A-28	G.S. 15-198
G.S. 7A-194	G.S. 15-199
G.S. 14-265	G.S. 15-200
G.S. 15-103.1	G.S. 15-200.1
G.S. 15-110	G.S. 15-200.2
G.S. 15-111	G.S. 15-205.1
G.S. 15-112	G.S. 15-217
G.S. 15-113	G.S. 15-218
G.S. 15-114	G.S. 15-219
G.S. 15-115	G.S. 15-220

G.S. 15-116	G.S. 15-221
G.S. 15-117	G.S. 15-222
G.S. 15-118	G.S. 122-83
G.S. 15-119	G.S. 122-84
G.S. 15-120	G.S. 122-84.1
G.S. 15-121	G.S. 122-88
G.S. 15-122	G.S. 122-89
G.S. 15-123	G.S. 148-12(b)
G.S. 15-124	G.S. 148-30
G.S. 15-159	G.S. 148-32
G.S. 15-173.1	G.S. 148-42
G.S. 15-174	G.S. 148-49.3
G.S. 15-179	G.S. 148-58
G.S. 15-180	G.S. 148-58.1
G.S. 15-180.1	G.S. 148-60
G.S. 15-180.2	G.S. 148-60.2
G.S. 15-180.3	G.S. 148-60.3
G.S. 15-181	G.S. 148-61
G.S. 15-182	G.S. 148-61.1
G.S. 15-183	G.S. 148-62
G.S. 15-184	G.S. 162-41
G.S. 15-185	G.S. 162-45
G.S. 15-186	G.S. 162-47
G.S. 15-197	G.S. 162-49

Sec. 34. All statutes which refer to sections repealed or amended by this act shall be deemed, insofar as possible, to refer to those provisions of this act which accomplish the same or an equivalent purpose.

Sec. 35. None of the provisions of this act providing for the repeal of certain sections of the General Statutes shall constitute a reenactment of the common law.

Sec. 36. If any provisions of this act or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 37. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 38. The eligibility for parole and work release of prisoners not specified in G.S. 15A-1371(a) is determined by the law applicable prior to the effective date of this act. In applying G.S. 15A-1371(a) to sentences entered before the effective date of this act, a sentence to an absolute term of years, with no minimum, is regarded as having a minimum term equal to the absolute term.

Sec. 39. This act shall become effective July 1, 1978, and applies to all matters addressed by its provisions without regard to when a defendant's guilt was established or when judgement was entered against him, except that the provisions of Article 85, "Parole" shall not apply to persons sentenced before July 1, 1978.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. B. 334 **CHAPTER 712**

AN ACT TO ESTABLISH A SYSTEM FOR THE PERIODIC REVIEW AND FOR THE TERMINATION, CONTINUATION, OR REESTABLISHMENT OF CERTAIN LICENSING AND REGULATORY AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Findings and purposes. The General Assembly finds that State government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The General Assembly further finds that by establishing a system for the termination, continuation, and reestablishment of such agencies, it will be in better position to evaluate the need for the continued existence of existing and future regulatory bodies.

Sec. 2. The following statutes are repealed effective July 1, 1979, (except for purposes of the winding-up period, as provided by Section 5 of this act):

G.S. Chapter 83, entitled "Architects."
G.S. Chapter 89C, entitled "Engineering and Land Surveying."
G.S. Chapter 89A, entitled "Landscape Architects."
G.S. Chapter 87, Article 1, entitled "General Contractors."
G.S. Chapter 87, Article 2, entitled "Plumbing and Heating Contractors."
G.S. Chapter 87, Article 3, entitled "Tile Contractors."
G.S. Chapter 87, Article 4, entitled "Electrical Contractors."
G.S. Chapter 87, Article 5, entitled "Refrigeration Contractors."
G.S. Chapter 87, Article 6, entitled "Water Well Contractors."
G.S. Chapter 84, Article 4, entitled "North Carolina State Bar."
G.S. Chapter 85C, entitled "Bail Bondsmen and Runners."
G.S. Chapter 90A, Article 1, entitled "Sanitarians."
G.S. Chapter 90A, Article 2, entitled "Water Treatment Facility Operators."
G.S. Chapter 90A, Article 3, entitled "Wastewater Treatment Plant Operators."
G.S. Chapter 93, entitled "Public Accountants."
G.S. Chapter 93A, entitled "Real Estate Brokers and Salesmen."
G.S. Chapter 66, Article 9A, entitled "Private Detectives."
G.S. Chapter 93C, entitled "Watchmakers."
G.S. Chapter 74, Article 6, entitled "Mining Registration."
G.S. Chapter 78A, Article 5, entitled "Registration of Dealers and Salesmen" (of securities).

G.S. Chapter 81A, Article 5, entitled "Public Weightmasters."
G.S. Chapter 95, Article 5, entitled "Regulation of Employment Agencies."
G.S. Chapter 95, Article 15, entitled "Passenger Tramways."
G.S. Chapter 143B, Article 2, Part 6, entitled "Public Librarian Certification Commission", G.S. 125-9, entitled "Librarian Certification" and G.S. 125-10, entitled "Temporary Certificates for Public Librarians".
G.S. Chapter 74, Article 7, entitled "The Mining Act of 1971."
G.S. Chapter 113A, Article 4, entitled "Sedimentation Pollution Control Act of 1973."
G.S. Chapter 143, Article 21, Part 3, entitled "Dam Safety."
G.S. Chapter 143B, Article 7, Part 6, entitled "North Carolina Mining Commission."
G.S. Chapter 143B, Article 7, Part 8, entitled "Sedimentation Control Commission."
G.S. Chapter 143B, Article 7, Part 9, entitled "Wastewater Treatment Plant Operators Certification Commission."
G.S. 76-1 through 76-12, relating to a board of commissioners of navigation and pilotage for the Cape Fear River and Bar.
G.S. Chapter 76, Article 6, entitled "Morehead City Navigation and Pilotage Commission."
G.S. Chapter 71, Article 2, entitled "North Carolina Commission on Indian Affairs."

Sec. 3. The following statutes are repealed effective July 1, 1981, (except for purposes of the winding-up period, as provided by Section 5 of this act):

G.S. Chapter 90, Article 1, entitled "Practice of Medicine."
G.S. Chapter 90, Article 2, entitled "Dentistry."
G.S. Chapter 90, Article 4, entitled "Pharmacy."
G.S. Chapter 90, Article 6, entitled "Optometry."
G.S. Chapter 90, Article 7, entitled "Osteopathy."
G.S. Chapter 90, Article 8, entitled "Chiropractic."
G.S. Chapter 90, Article 9, entitled "Nurse Practice Act."
G.S. Chapter 90, Article 10, entitled "Midwives," and G.S. Chapter 130, Article 18, entitled "Midwives."
G.S. Chapter 90, Article 11, entitled "Veterinarians."
G.S. Chapter 90, Article 12A, entitled "Podiatrists."
G.S. Chapter 90, Article 13A, entitled "Practice of Funeral Service."
G.S. Chapter 90, Article 16, entitled "Dental Hygiene Act."
G.S. Chapter 90, Article 17, entitled "Dispensing

Opticians."
G.S. Chapter 90, Article 18, entitled "Physical Therapy."
G.S. Chapter 90, Article 18A, entitled "Practicing Psychologists."
G.S. Chapter 90, Article 20, entitled "Nursing Home Administration Act."
G.S. Chapter 86, entitled "Barbers."
G.S. Chapter 88, entitled "Cosmetic Art."
G.S. Chapter 108, Article 3, Part 2, entitled "Licensing of Private Institutions (maternity homes, homes for the aged and infirm, private child-care institutions)."
G.S. Chapter 110, Article 3, entitled "Control over Child-Caring Facilities," and Article 7, entitled "Day-Care Facilities."
G.S. Chapter 143B, Article 9, Part 4, entitled "Child Day-Care Licensing Commission."
G.S. Chapter 122, Article 2E, entitled "Licensing of Local Mental Health Facilities."
G.S. 122-72, entitled "Licensing and Control of Local Mental Institutions and Homes."
G.S. Chapter 130, Article 26, entitled "Regulation of Ambulance Services."
G.S. Chapter 131, Article 13A, entitled "Hospital Licensing Act."
G.S. Chapter 66, Article 9, entitled "Collection of Accounts."
G.S. Chapter 66, Article 9B, entitled "Motor Clubs and Associations".
G.S. Chapter 113A, Article 7, entitled "Coastal Area Management."
G.S. Chapter 143, Article 21, entitled "Water and Air Resources." (except Part 3).
G.S. Chapter 143, Article 21A, entitled "Oil Pollution Control."
G.S. Chapter 143, Article 21B, entitled "Air Pollution Control."
G.S. Chapter 143, Article 38, entitled "Water Resources."
G.S. Chapter 143B, Article 7, Part 4, entitled "Environmental Management Commission."

Sec. 4. The following statutes are repealed effective July 1, 1983, (except for purposes of the winding-up period, as provided by Section 5 of this act):

G.S. Chapter 90, Article 22, entitled "Licensure Act for Speech and Language Pathologists and Audiologists."
G.S. Chapter 89B, entitled "Foresters."
G.S. Chapter 85B, entitled "Auctions and Auctioneers."
G.S. Chapter 74B, entitled "Private Protective Services Act."
G.S. Chapter 89D, entitled "Landscape Contractors."

G.S. Chapter 136, Article 2C, entitled "House Movers Licensing Board."
G.S. Chapter 93D, entitled "North Carolina State Hearing Aid Dealers and Fitters Board."
G.S. Chapter 104E, entitled "North Carolina Radiation Protection Act."
G.S. Chapter 106, Article 2, entitled "North Carolina Fertilizer Law of 1947."
G.S. Chapter 106, Article 4C, entitled "Structural Pest Control Act."
G.S. Chapter 106, Article 5A, entitled "Marketing of Farmers Stock Peanuts."
G.S. Chapter 106, Article 12, entitled "Food, Drugs and Cosmetics."
G.S. Chapter 106, Article 14, entitled "State Inspection of Slaughterhouses."
G.S. Chapter 106, Article 14A, entitled "Licensing and Regulation of Rendering Plants and Rendering Operations."
G.S. Chapter 106, Article 15A, entitled "Meat Graders Law."
G.S. Chapter 106, Article 17, entitled "Marketing and Branding Farm Products."
G.S. Chapter 106, Article 28A, entitled "Regulation of Milk Brought into North Carolina from other States," and Article 28B, entitled "Regulation of Production, Distribution, etc., of Milk and Cream."
G.S. Chapter 106, Article 29, entitled "Inspection, Grading, and Testing Milk and Dairy Products."
G.S. Chapter 106, Article 31, entitled "North Carolina Seed Law."
G.S. Chapter 106, Article 34, Part 10, entitled "Feeding Garbage to Swine."
G.S. Chapter 106, Article 35, entitled "Public Livestock Markets."
G.S. Chapter 106, Article 35B, entitled "Livestock Dealer Licensing Act."
G.S. Chapter 106, Article 44, entitled "Unfair Practices by Handlers of Fruits and Vegetables."
G.S. Chapter 106, Article 49, entitled "Poultry; Hatcheries; Chick Dealers."
G.S. Chapter 106, Article 51A, entitled "North Carolina Antifreeze Law of 1975."
G.S. Chapter 106, Article 53, entitled "Grain Dealers," and Article 54, entitled "Adulteration of Grains".
G.S. Chapter 113, Article 7, entitled "North Carolina Game Law of 1935."
G.S. Chapter 113, Article 17, entitled "Administrative Provisions; Regulatory Authority of Marine Fisheries Commission and Department."

G.S. Chapter 143, Article 52, Part 3, entitled "Pesticide Dealers and Manufacturers."
G.S. Chapter 143, Article 52, Part 4, entitled "Pesticide Applicators and Consultants."
G.S. 58-15, entitled "Authority over all insurance companies; no exemption from license."
G.S. 58-40, entitled "Agents and others must procure license."
G.S. Chapter 58, Article 4, entitled "Insurance Premium Financing."

Sec. 5. Winding-up period. Upon termination, each program or function shall continue in operational existence until July 1 of the next succeeding year as a winding-up period. During the winding-up period, termination shall not reduce or otherwise limit the powers or authority of the responsible agencies. Upon the expiration of the one-year period after termination, each such program or function shall cease operation entirely.

Sec. 6. Governmental Evaluation Commission; creation, termination, membership, compensation. (a) There is hereby created a temporary State commission, to be known as the Governmental Evaluation Commission, (hereinafter, "the commission"), which shall consist of 10 members, six to be appointed by the Governor, and two each to be appointed by the Lieutenant Governor and the Speaker of the House of Representatives. The Lieutenant Governor's appointees shall be members of the Senate, and the Speaker's appointees shall be members of the House of Representatives, but no other member of the General Assembly or officer or employee of the State or spouse of any such member, officer or employee may be a member of the commission. Commission members shall designate a chairman from among them annually. The original appointments of non-legislator members will expire on June 30, 1980. The terms of the non-legislator members appointed thereafter shall be three years, commencing on July 1 of the year in which the predecessor's term expired. The initial legislator-members shall be appointed after the effective date of this act; they and their successors shall serve until the expiration of the legislative terms which they are serving at the time of their appointment to the commission and until their successors are appointed or until they cease to be members of the General Assembly, whichever occurs first. Vacancies in the positions of legislator-members shall be filled in the same manner that the vacated position was originally filled, and the person so appointed shall serve for the remainder of the unexpired term of the person whom he succeeds. Vacancies in the positions of the Governor's appointees shall be filled by the Governor for the unexpired term.

(b) Commission members who are not legislators shall receive as compensation for their services the same per diem and travel expense allowances as members of occupational licensing boards pursuant to G.S. 93B-5. Legislator-members of the commission shall be compensated pursuant to G.S. 120-3.1.

(c) The commission shall utilize the expertise of the Attorney General and other appropriate agencies in performing its duties under this act.

(d) The commission is authorized to employ such clerical, technical and professional staff, and to obtain such consulting services, as the commission deems necessary, and to defray the expenses thereof from any funds made

available to it through grants, appropriations or any other source. The number of staff persons to be employed, the salary to be paid to each, the fees to be paid to consultants, and the expenditure of funds for any purpose by the commission shall be subject to the approval of the Legislative Services Commission.

(e) Except as herein provided, commission members shall not be permanent salaried employees of the commission.

(f) The commission shall terminate and the authority granted by this act shall expire on June 30, 1983.

Sec. 7. Performance evaluation of programs scheduled for termination. (a) The Governmental Evaluation Commission shall cause to be conducted a performance evaluation of each program or function scheduled for termination under this act. The agency responsible for each program or function under review shall provide the commission with the following information:

(1) the identity of all agencies or subunits under the direct or advisory control of the agency whose program is under review;

(2) all powers, duties, and functions currently performed by the agency whose program is under review, or that are currently inactive;

(3) all constitutional, statutory, or other authority under which said powers, duties, and functions of the agency are carried out;

(4) any powers, duties, or functions which, in the opinion of the agency under review, are being performed and duplicated to any extent by another agency within the State including the manner in which, and the extent to which, this duplication of efforts is occurring and any recommendations as to eliminating such a situation;

(5) any powers, duties, or functions which, in the opinion of the agency under review, are inconsistent with current and projected public demands and should be terminated or altered; and

(6) any other information which the commission in its discretion, feels is necessary and proper in carrying out its duties to review.

(b) In conducting the evaluations, the commission shall take into consideration, but not be limited to considering, the factors listed in Section 8 of this act. Upon completion of the evaluation, the commission shall submit a report to the General Assembly, including the commission's recommendation as to whether the program or function in question should be terminated, reconstituted, reestablished, or continued, with or without modification of the relevant statutes, and whether the responsible agency should be terminated, reconstituted, reestablished, or continued, with or without modification of the relevant statutes. The commission shall hold public hearings as provided in Section 9 of this act for the purpose of reviewing its proposed report. A copy of the report shall be made available to each member of the General Assembly at least six months prior to the scheduled date of termination under Sections 2, 3 and 4 of this act.

(c) The commission may review related programs or functions not scheduled for termination which, in the commission's judgment, should be consolidated or better coordinated with programs scheduled for termination, and as a result of such review the commission may recommend legislation providing for consolidation or coordination of related programs or for additional related programs to be scheduled for termination.

Sec. 8. Evaluation elements. The elements used by the Governmental Evaluation Commission in making its determination of the need for

continuance of an agency program or function shall include, but not be limited to:

(1) an identification of the objectives intended for the agency program and the problem or need which the program was intended to address;

(2) an assessment of the degree to which the original objectives of the agency program have been achieved expressed in terms of performance, impact, or accomplishemnts of the program and of the problem or need which it was intended to address. Such assessment shall employ procedures or methods of analysis which the commission determines to be appropriate to the type or character of the program;

(3) a statement of the performance and accomplishments of the agency program in the last fiscal year and of the budgetary costs incurred in the operation of the program;

(4) a statement of the number and types of persons served by the agency program;

(5) a summary statement, for the last completed fiscal year, of the number, by grade, and cost of personnel employed in carrying out the agency program and a summary statement of the cost of personnel employed under contract in carrying out the program;

(6) an assessment of the degree to which the overall policies of the agency program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the agency meet the objectives of the General Assembly in establishing the program;

(7) an assessment of the effect of the agency program on the State economy including costs to consumers and businesses;

(8) an evaluation of the reporting and record-keeping requirements and activities of the agency program, including the management and control of information and records and the value of the information gathered compared to the cost to respondents, and an assessment of methods to reduce and simplify the reporting and record-keeping requirements;

(9) a summary statement of the budget and program of the agency for the current fiscal year and budget projections for the next succeeding fiscal year if the program were to be continued;

(10) an assessment of whether the agency has permitted qualified applicants to serve the public, and whether the agency has encouraged participation by the public in making its rules and decisions, as opposed to participation solely by the persons it regulates;

(11) an evaluation of the extent to which operation has been efficient and responsive to public needs;

(12) an evaluation of the extent to which complaints have been expeditiously processed to completion in the public interest; and

(13) an analysis of the services and performance estimated to be achieved if the agency or agency program were continued.

Sec. 9. Hearings by Governmental Evaluation Commission. (a) Before submitting a report to the General Assembly concerning the performance evaluation of any program or function, the commission shall hold one or more public hearings concerning its proposed report. The commission shall give notice of each such public hearing and offer any person an opportunity to present data, views, and arguments. The notice shall be given at least 10 days

before the public hearing and at least 20 days before the adoption or amendment of the report. The notice shall include:

(1) a reference to the statutory authority for the report (this act);

(2) the time and place of the public hearing and a statement of the manner in which data, views, and arguments may be submitted either at the hearing or at other times by any person;

(3) a statement of the terms or substance of the proposed report or a description of the subjects and issues involved.

(b) The commission shall transmit copies of the notice to the Attorney General and all persons and agencies who have requested the commission in writing for advance notice of proposed action which may affect them. The notices shall be in writing and shall be forwarded by mail or otherwise to the last address specified by the person.

(c) Any such notice shall be published at least once in one newspaper of general circulation in Wake County. The commission shall also deliver a copy of the notice to the agency or agencies responsible for the program or function that is the subject of the performance evaluation.

(d) The commission is authorized to set reasonable time limits for the oral presentation of views by any one person at any such hearing. The commission shall permit anyone who so desires to file a written argument or other statement with it in relation to the proposed report any time within 10 days following the conclusion of any public hearing or within such additional time as it may allow by notice given as prescribed in this section.

(e) Upon completion of the hearing and consideration of submitted evidence and arguments with respect to any proposed report pursuant to this section, the commission shall adopt its final action with respect thereto and shall file a duly certified copy thereof with the Attorney General, with the members of the General Assembly and with the agency or agencies responsible for the program or function that is the subject of the report.

(f) The procedure set forth in this section shall be a complete procedure for the report, hearings, notices, and filing requirements that are the subject of this section. The commission and its proceedings shall be exempt from the requirements of the Administrative Procedure Act (G.S. Chapter 150A), and any other requirements of law concerning the subjects of this section including without limitation any statutory requirements concerning filing of notices or reports with the Secretary of State or the Attorney General.

(g) The commission is authorized to meet or to hold hearings in the State Legislative Building when the General Assembly is not in session, subject to the determination by the Legislative Services Commission that space is available.

Sec. 10. Hearings by legislative committees of reference. (a) Prior to the termination, continuation, or reestablishment of any such program or function a committee of reference in each house of the General Assembly shall hold a public hearing, receiving testimony from the public and the agency involved, and in such a hearing the agency shall have the burden of demonstrating a public need for the continued existence of the program or function. The "committees of reference" shall be the Senate and House Committees on State Government, respectively, or such other committees as the respective presiding officers may determine. The committees of reference may hold joint public hearings and may meet jointly to formulate their recommendations.

(b) In developing their legislative recommendations the committees of reference shall consider the evaluation elements listed in Section 8 of this act; shall proceed with a view to continuing productive, efficient and active programs which are in the public interest, to eliminating inactive programs, and to eliminating or consolidating overlapping or duplicating programs; and shall consider the extent to which changes are needed in enabling laws.

Sec. 11. Separate bills required for each agency. No more than one agency, board, council, committee, commission, or association shall be continued or reestablished in any bill recommended under this act, and such agency, board, council, commission, or association shall be mentioned in the bill's title.

Sec. 12. Claims against agencies not to be terminated. This act shall not cause the dismissal of any claim or right of a citizen against any such agency or any claim or right of agency terminated pursuant to this section which is subject to litigation.

Sec. 13. Severability. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances, is not affected.

Sec. 14. All references in Sections 2 through 4 of this act to various General Statutes provisions that are repealed refer to these statutes as they appear in the latest G.S. Replacement Volume, as amended by the 1975 Supplements.

Sec. 15. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to implement the provisions of this act.

Sec. 16. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. B. 360 CHAPTER 713

AN ACT TO AMEND THE LAW RELATING TO PARENTS' RIGHT TO DISPOSE OF CUSTODY AND TUITION OF MINOR CHILDREN BY WILL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 33-2, as it appears in the 1976 Replacement Volume 2A of the General Statutes, is amended by deleting the first two sentences of the section and substituting therefor the following:

"Parents are presumed to know the best interest of their children, and any parent may by last will and testament recommend disposition of the custody and tuition of any of his or her unmarried minor children, whether born at the parent's death or *en ventre sa mere*, for such time as the children may remain under 18 years of age, or for any less time. Such will may be made without regard to whether the testator is an adult or minor. Any parent who willfully abandons a child or children shall relinquish the right of appointment. Any will containing such provision shall be a strong guide to the court in awarding custody in the absence of a surviving parent, subject to the provisions of G.S. 50-13.1 through G.S. 50-13.8, and shall control where there is no dispute, and, if both parents make such recommendations, the will with the latest date shall, in absence of other relevant factors, prevail."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. B. 361 CHAPTER 714

AN ACT TO AMEND G.S. 33-67 BY CHANGING THE TERM "MOTHER" TO "OTHER PARENT".

The General Assembly of North Carolina enacts:

Section 1. G.S. 33-67, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 5 by deleting the word "mother" and substituting therefor the words "other parent".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. B. 709 CHAPTER 715

AN ACT TO AMEND G.S. 66-58 RELATING TO THE SALE OF MERCHANDISE BY STATE GOVERNMENTAL UNITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(b)(8) is amended by deleting the period at the end of said subsection, substituting a comma therefor, and adding the following:

"Nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of The University of North Carolina."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. B. 463 CHAPTER 716

AN ACT TO GRANT THE CITY OF GREENVILLE ALTERNATIVE CONDEMNATION PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. In exercising the power of eminent domain for any public purpose, if negotiations for the purchase of land or rights in land are unsuccessful, the City of Greenville may, in its discretion, use the procedures of Article 9 of Chapter 136 of the General Statutes as now in force or as may hereafter be amended, as well as the procedures of any other general law, charter, or local act applicable to the city.

Sec. 2. As contained in Article 9 of Chapter 136 of the General Statutes, when such Chapter is used by the City of Greenville for condemnation, all reference therein to "Board of Transportation" shall be deemed to mean "City of Greenville"; all reference to the "Chairman of the Board of Transportation" or "Director of Highways" shall be deemed to mean "Mayor of the City of Greenville"; all references to authority or persons or agencies connected therewith shall be deemed to refer to the City of Greenville.

Sec. 3. When Article 9 of Chapter 136 of the General Statutes, as now in force or as shall be hereafter amended, are used as a condemnation procedure by

the City of Greenville, the Chapter will be read as if it were applicable to the City of Greenville.

Sec. 4. The provisions of this act shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 5. This act is applicable only to the City of Greenville and the taking by the City of Greenville of property for a public purpose and provided further that in all times before using the authority given in this act, the City of Greenville shall always get an independent appraisal of the sum estimated as just compensation for the taking.

Sec. 6. This act shall be in addition to and not in derogation of any other powers already held by general laws or otherwise.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 882 CHAPTER 717

AN ACT TO AUTHORIZE THE HOLDING OF A MALT BEVERAGE AND UNFORTIFIED WINE ELECTION IN THE TOWN OF RURAL HALL.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 18A-52(i), an election on the issues of whether malt beverages and unfortified wines may be sold in Rural Hall is hereby authorized upon the written request of the governing body of the town or upon presentation of an appropriate petition as described in G.S. 18A-52.

Sec. 2. With the exception of subsection (i) thereof, the provisions of G.S. 18A-52 shall apply to any election held in the Town of Rural Hall pursuant to this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1099 CHAPTER 718

AN ACT TO REQUIRE THAT INSURANCE AGENTS OF FRATERNAL SOCIETIES BE SUBJECT TO INSURANCE EXAMINATIONS PRIOR TO LICENSING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-268, as the same appears in the 1975 Replacement of Volume 2B of the General Statutes, is hereby amended by adding after the period in line 11 thereof the following language and punctuation:

"Provided, organizers or agents who are engaged in or intend to engage in the sale of individual policies of life insurance shall take the examination required of life insurance agents. Those organizers or agents licensed for the sale of

insurance pursuant to G.S. 58-268 as of July 1, 1977, shall be exempt from examination."

Sec. 2. This act shall be effective July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1153 CHAPTER 719

AN ACT AMENDING CHAPTER 159C OF THE GENERAL STATUTES WHICH AUTHORIZES COUNTIES TO CREATE AUTHORITIES TO ISSUE BONDS TO FINANCE INDUSTRIAL AND POLLUTION CONTROL PROJECTS, TO REVISE THE PROVISIONS THEREOF RELATING TO ELIGIBILITY REQUIREMENTS FOR APPOINTMENT TO AN AUTHORITY, TO THE AVERAGE MANUFACTURING WAGE REQUIREMENT FOR INDUSTRIAL PROJECTS, TO THE TAXATION OF PROJECTS AND TAX EXEMPTION OF INTEREST ON BONDS, TO CONTRACTS FOR THE ACQUISITION AND CONSTRUCTION OF PROJECTS, AND TO CONFLICTS OF INTEREST, TO ADD PROVISIONS PERMITTING THE SUBORDINATION OF BONDS TO OTHER SECURITY INTERESTS AND PROVIDING THAT THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT SHALL NOT APPLY TO AUTHORITIES, AND TO REPEAL PROVISIONS REQUIRING AN ANNUAL AUDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159C-4(b) is hereby amended by rewriting the first sentence thereof to read as follows:

"Each commissioner of an authority shall be a qualified elector and resident of the county for which the authority is created, and no commissioner shall be an elected official of the county for which the authority is created."

Sec. 2. G.S. 159C-7(1)a. is hereby rewritten to read as follows:

"a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage (i) which is above the average weekly manufacturing wage paid in the county, or (ii) which is not less than twenty percent (20%) above the average weekly manufacturing wage paid in the State, and".

Sec. 3. G.S. 159C-7 is hereby amended by rewriting the third paragraph thereof to read as follows:

"In any case where the secretary shall make all of the required findings respecting a proposed industrial project except that prescribed in subparagraph (1)a. of this section, the secretary may, in his discretion, approve the proposed project if he shall have received (i) a resolution of the governing body of the county requesting that the proposed project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the secretary, to the effect that unemployment in the county is especially severe."

Sec. 4. G.S. 159C-12 is hereby amended as follows:

(1) The first sentence of the first paragraph thereof is hereby rewritten to read as follows:

"Bonds issued under the provisions of this Chapter may be secured by a security document which may be a trust instrument between the authority and a bank or trust company or individual within the State, or a bank or a trust company without the State, as trustee."

(2) A fourth paragraph is added to read as follows:

"The authority may subordinate the bonds or its rights under the lease agreement or otherwise to any prior, contemporaneous or future securities or obligations or lien, mortgage or other security interest."

Sec. 5. G.S. 159C-14 is hereby rewritten to read as follows:

"§ 159C-14. *Tax exemption.*—The authority shall not be required to pay any taxes on any project or on any other property owned by the authority under the provisions of this Chapter or upon the income therefrom.

The interest on bonds issued by the authority shall be exempt from all income taxes within the State.

All projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith."

Sec. 6. G.S. 159C-15 is hereby rewritten to read as follows:

"§ 159C-15. *Construction contracts.*—The authority may agree with the prospective operator that all contracts relating to the acquisition, construction, installation and equipping of a project shall be solicited, negotiated, awarded and executed by the prospective operator and its agents subject only to such approvals by the authority as the authority may require in such agreement. Such agreement may provide that the authority may, out of the proceeds of bonds, make advances to or reimburse the operator for all or a portion of its costs incurred in connection with such contracts."

Sec. 7. G.S. 159C-16 is hereby rewritten to read as follows:

"§ 159C-16. *Conflict of interest.*—If any officer, commissioner or employee of the authority, or any member of the governing body of the county for which the authority is created, shall be interested either directly or indirectly in any contract with the authority, such interest shall be disclosed to the authority and the county board of commissioners and shall be set forth in the minutes of the authority and the county board of commissioners, and the officer, commissioner, employee or member having such interest therein shall not participate on behalf of the authority in the authorization of any such contract or on behalf of the governing body of the county in the approval of the bonds to be issued by the authority to finance the project, respectively; provided, however, that this section shall not apply to the ownership of less than one per centum (1%) of the stock of any operator or obligor. Failure to take any or all actions necessary to carry out the purposes of this section shall not affect the validity of bonds issued pursuant to the provisions of this Chapter."

Sec. 8. G.S. 159C-22 is hereby amended as follows:

(1) The third sentence thereof is hereby deleted.

(2) A new paragraph is hereby added thereto as follows:

"The provisions of Article III, Subchapter III of Chapter 159 of the General Statutes of North Carolina entitled: 'The Local Government Budget and Fiscal Control Act' shall have no application to authorities created pursuant to this Chapter."

Sec. 9. The creation, formation and organization of all authorities heretofore purported to have been created, formed and organized are hereby ratified, confirmed and validated.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1223 CHAPTER 720

AN ACT TO AUTHORIZE AND REGULATE MOVEMENT OF STRUCTURES, HISTORICAL BUILDINGS, HOUSES OR OTHER EXTRAORDINARY OBJECTS ON STATE HIGHWAY SYSTEM OF ROADS.

The General Assembly of North Carolina enacts:

Section 1. Definitions. "Person" as used in this Article shall mean an individual, corporation, partnership, association or any other business entity. The word "House" as used in this Article shall mean a dwelling, building, or other structure in excess of 14 feet in width. The word "Department" as used in this Chapter shall mean the North Carolina Department of Transportation.

Sec. 2. Housemovers to be licensed. All persons who engage in the profession of housemoving on roads and highways on the State Highway System shall be licensed by the department.

Sec. 3. Qualifications to become licensed. The department shall issue annual printed licenses to applicants meeting the following conditions:

(a) The applicant must be at least 18 years of age; present acceptable evidence of good character and show sufficient housemoving experience on the application form furnished by the department. Housemoving experience means extensive and responsible training gained by the applicant while engaged actively and directly on a full-time basis in the moving of houses and structures on public roads and highways with at least 24 months experience. Examples of the capacity in which a person may work in gaining experience include the following in building moving operations:

(1) moving superintendent,

(2) moving foreman, and

(3) general mechanic and helper in the housemoving profession or trade.

(b) The applicant must furnish proof that he has (1) complied with Article 13, Chapter 20, of the North Carolina General Statutes for the liability imposed by law for the ownership, operation, maintenance or use of motor vehicles in his business operation; (2) a permit or license bond in the amount of five thousand dollars ($5,000).

(c) The applicant must furnish proof that all of the vehicles, excluding "beams and dollies" and "hauling units", to be used in the movement of buildings, structures, or other extraordinary objects wider than 14 feet have met the requirements of G.S. 20-183.2 pertaining to the equipment inspection of motor vehicles; provided that the "beams and dollies" and "hauling units" are excluded from inspection under G.S. 20-183.2 and, further, are not required to be equipped with brakes.

(d) Exhibit his federal employer's identification number.

Sec. 4. Effective period of license. A license issued hereunder shall be effective for a period of one year from date of issuance and shall be renewable on an annual basis.

Sec. 5. Requirements for permit. (a) Persons licensed as professional housemovers shall also be required to secure a permit from the department for every move undertaken on the State highway system of roads; that permit shall be issued by the department after determining that the applicant is (1) properly licensed, (2) furnished special surety bonds as required by the department, and (3) complying with such other regulations as required by the department.

(b) It shall be the duty of the applicant to see that the "beams and dollies" and "hauling units" used shall be constructed with proper material in a suitable manner and utilized so as to provide for the safety of the general public and the structure being relocated. Any violation of this duty may result in suspension or revocation of his license by the department.

(c) A license shall not be required for individuals moving their own buildings; however, a permit will be required for all moves.

(d) Licensed housemovers shall furnish front and rear escort vehicles on all moves, one or both of which may be a marked police, sheriff or State Highway Patrol vehicle, or one or two private escort vehicles equipped with flashing amber lights depending on the number of law enforcement vehicles escorting the move; escort vehicles shall operate where possible at a distance of 300 feet from the structure being moved; that this interval will be closed in cities and other congested areas to protect other traffic from the swing of the load at corners and turns and, the private escort vehicles shall burn their headlights and be equipped with red flags on each side at the front; in addition, the private escort vehicles shall be equipped with a sign across the front or rear bumper bearing the legend "Wide Load" or "Oversized Load Following" or "Oversized Load Ahead", whichever is appropriate, with black letters at least 10 inches high on a yellow background.

Sec. 6. Application for permits. Application must be made to the division or district engineer having jurisdiction at least two days prior to the date of move. For good cause shown, this time may be waived by the district or division engineer. A travel plan shall accompany the application. Division or district engineers are authorized to issue permits for individual moves of a structure or building whose width does not exceed 36 feet. The travel plan will show the proposed route, the time estimated for each segment of the move, a plan to handle traffic so that no one delay to other highway users shall exceed 20 minutes. The division or district engineers shall review the travel plan and if the route cannot accommodate the move due to roadway weight limits, bridge size or weight limits, or will cause undue interruption of traffic flow, the permit shall not be issued. The applicant may submit alternate plans if desired until an acceptable route is determined. If the width of the building or structure to be relocated is more than 36 feet, or if no acceptable travel plan has been filed, and the denial of the permit would cause a hardship, the application and travel plan may be submitted to the department on appeal. After reviewing the route and travel plan, the department may in its discretion issue the permit after considering the practical physical limitations of the route, the nature and purpose of the move, the size and weight of the structure, the distance the structure is to be moved, and the safety and convenience of the traveling public. A surety bond in an amount to cover the cost of any damage to the pavement,

structures, bridges, roadway or other damages that may occur can be required if deemed necessary by the department.

Sec. 7. Liability of housemovers. The permittee assumes all responsibility for injury to persons or damage to property of any kind and agrees to hold the department harmless for any claims arising out of his conduct or actions.

Sec. 8. Removal and replacement of obstructions. All obstructions, including traffic signals, signs, and utility lines will be removed immediately prior to and replaced immediately after the move at the expense of the mover, provided that arrangements for and approval from the owner is obtained.

Sec. 9. Route changes. Irrespective of the route shown on the permit, an alternate route will be followed:

(a) If directed by a peace officer.

(b) If directed by a uniformed officer assigned to a weighing station to follow a route to a weighing device.

(c) If the specified route is officially detoured. Should a detour be encountered, the driver shall check with the office issuing permit on which he is traveling prior to proceeding.

Sec. 10. Right-of-way. The object to be transported will not be loaded, unloaded, nor parked, day or night, on highway right-of-way without specific permission from the district or division engineer.

Sec. 11. Weather. No move will be made when atmospheric conditions render visibility lower than safe for travel. Moves will not be made when highway is covered with snow or ice, or at any time travel conditions are considered unsafe by the department or highway patrol or other law enforcement officers having jurisdiction.

Sec. 12. Obtaining license or permit by fraud. The permit may be voided if any conditions of the permit are violated. Upon any violation, the permit must be surrendered and a new permit obtained before proceeding. Misrepresentation of information on application to obtain a license, fraudulently obtaining a permit, alteration of a permit, or unauthorized use of a permit will render the permit void.

Sec. 13. Municipal regulations. All moves on streets on the municipal system of streets shall comply with local regulations.

Sec. 14. Out-of-State licenses and permits. An out-of-State person, partnership, or corporation engaging in the structural moving business may apply to the department for a license to engage in the housemoving profession in North Carolina, and obtain permits for moves by complying with the provisions of this Article and the regulations of the department in the same manner as is required of North Carolina residents.

Sec. 15. Speed limits. The speed of moves will be that which is reasonable and prudent for the load, considering weight and bulk, under conditions existing at the time.

Sec. 16. Penalties. (a) Any person violating the provisions of this Article or the regulations of the department governing housemoving shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars ($500.00), or imprisonment for not more than 30 days or both.

(b) The department is hereby authorized in the name of the State to apply for relief by injunction, in the established manner provided in cases of civil

procedure, without bond, to enforce the provisions of this Chapter, or to restrain any violation thereof. In such proceedings, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof.

Sec. 17. Invalid section; severability. If any of the provisions of this Chapter, or if the application of such provisions to any person or circumstance shall be held invalid, the remainder of this Chapter and the application of such provision of this Chapter other than those as to which it is held valid, shall not be affected thereby.

Sec. 18. This act shall become effective on August 1, 1977 and will expire August 1, 1979.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1369 CHAPTER 721

AN ACT TO AMEND G.S. 7A-6(c) TO PROVIDE THAT SPECIAL COUNSEL AT REGIONAL PSYCHIATRIC FACILITIES SHALL BE INCLUDED IN THE GROUP OF PUBLIC OFFICIALS WHO RECEIVE ONE COPY OF THE ADVANCE SHEETS OF THE APPELLATE DIVISION WITHOUT CHARGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-6(c) is hereby rewritten to read as follows:

"(c) The Administrative Officer of the Courts shall furnish, without charge, one copy of the advance sheets of the appellate division to each justice and judge of the General Court of Justice, to each superior court district attorney, to each superior court clerk, to each district court prosecutor, to each special counsel at regional psychiatric facilities, and, in such numbers as may be reasonably necessary, to the Supreme Court Library."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1388 CHAPTER 722

AN ACT TO AMEND CHAPTER 185, PRIVATE LAWS OF 1929 RELATING TO THE TAX COLLECTOR AND TREASURER OF THE TOWN OF VANCEBORO.

The General Assembly of North Carolina enacts:

Section 1. Section 38 of Chapter 185, Private Laws of 1929, is amended by deleting in line 2 the words "of the town" and inserting in lieu thereof the words "of Vanceboro Township".

Sec. 2. Section 39 of Chapter 185, Private Laws of 1929, is amended by deleting in line 3 the words "of said town" and inserting in lieu thereof the words "of Vanceboro Township".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1406 CHAPTER 723

AN ACT TO EXTEND THE LAWS RELATING TO BREAKING INTO OR DAMAGING COIN-OPERATED VENDING AND OTHER MACHINES TO APPLY TO CURRENCY-OPERATED MACHINES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-56.1 is rewritten to read as follows:

"§ 14-56.1. *Breaking into or forcibly opening coin- or currency-operated machines.*—Any person who forcibly breaks into, or by the unauthorized use of a key or other instrument opens, any coin- or currency-operated machine with intent to steal any property or moneys therein shall be guilty of a misdemeanor punishable by fine or imprisonment or both in the discretion of the court, but if such person has previously been convicted of violating this section, such person shall be guilty of a felony. The term 'coin- or currency-operated machine' shall mean any coin- or currency-operated vending machine, pay telephone, telephone coin or currency receptacle, or other coin- or currency-activated machine or device."

Sec. 2. G.S. 14-56.2 is rewritten to read as follows:

"§ 14-56.2. *Damaging or destroying coin- or currency-operated machine.*—Any person who shall wilfully and maliciously damage or destroy any coin- or currency-operated machine shall be guilty of a misdemeanor punishable by fine or imprisonment or both in the discretion of the court. The term 'coin- or currency-operated machine' shall be defined as set out in G.S. 14-56.1."

Sec. 3. There shall be posted on the machines referred to in G.S. 14-56.1 a decal stating that it is a crime to break into vending machines, and that a second offense is a felony.

Sec. 4. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1475 CHAPTER 724

AN ACT TO AMEND CHAPTER 6, PRIVATE LAWS OF NORTH CAROLINA 1840-1841, AS AMENDED, PERTAINING TO THE CONSTRUCTION, OPERATION AND FINANCING OF HOSPITAL FACILITIES BY TRUSTEES OF THE REX HOSPITAL, RALEIGH, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 6, Private Laws of North Carolina 1840-1841, as amended by Chapter 53, Public-Local and Private Laws of North Carolina 1935, as amended by Chapter 98, Public-Local Laws of North Carolina 1939, as amended by Chapter 361 of Session Laws of 1973, and as amended by Chapter 1268 of Session Laws of 1973 (2d Session 1974) is hereby amended by adding a new Section V to read as follows:

"V. As an additional and alternative method of carrying out and effectuating their corporate purposes, the trustees are authorized to operate and maintain health care facilities financed by bonds or notes issued by the North Carolina

Medical Care Commission pursuant to the provisions of the Health Care Facilities Finance Act in Chapter 131A of the General Statutes of North Carolina, as may be amended from time to time, and are empowered to do and undertake all acts and things necessary to carry out and comply with the provisions of said act, including but without limiting the generality of the foregoing, the power:

(1) To acquire by purchase, lease, gift or otherwise property, real or personal, improved or unimproved, and convey the same to the North Carolina Medical Care Commission by sale, lease or otherwise for the purpose of constructing and financing health care facilities under the provisions of said act.

(2) To enter into contracts and agreements, including agreements of sale or lease, with the North Carolina Medical Care Commission pursuant to the provisions of Section 131A-8 of said act providing for the operation, repair and maintenance by the trustees of health care facilities, and providing for the payment by the trustees of purchase price payments or rent payments in an amount sufficient to pay all of the interest, principal and any redemption premium on bonds or notes issued by the North Carolina Medical Care Commission to pay the cost of the health care facilities sold or leased to the trustees, and all other costs incurred by the North Carolina Medical Care Commission in connection with the providing of the health care facilities so sold or leased, except such costs as may be paid out of the proceeds of bonds or notes or otherwise, including, but without limitation, insurance costs, the cost of administering the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes and the fees and expenses of trustees, paying agents, attorneys, consultants and others.

(3) To enter into contracts and agreements with the North Carolina Medical Care Commission pursuant to Section 131A-9 of said act to facilitate the construction of medical care facilities, including an agreement to act as agents of, or an independent contractor for, the North Carolina Medical Care Commission for the performance of the functions described therein, including the acquisition of the site and other real property for such health care facilities, the preparation of plans, specifications and contract documents, the award of construction and other contracts upon a competitive or negotiated basis, the construction of such health care facilities directly by the trustees, the inspection and supervision of construction, the employment of engineers, architects, builders and other contractors and the provision of money to pay the costs thereof pending reimbursement by the North Carolina Medical Care Commission."

Sec. 2. Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this act shall be controlling.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

S. B. 142 **CHAPTER 725**

AN ACT TO AMEND THE GUARDIANSHIP LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 35 of the General Statutes is hereby amended by adding a new Article 1A, to read as follows:

"ARTICLE 1A.

"Guardianship of Incompetent Adults.

"PART 1.

"Legislative Purpose.

"§ 35-1.6. *Legislative purpose.*—The General Assembly of North Carolina recognizes that:

(1) Some incompetent adults, regardless of where they are living, require the assistance of a guardian in order to help them exercise their rights, including the management of their property and personal affairs.

(2) Those individuals not able to act effectively on their own behalf have a right to a responsible, impartial guardian.

(3) The essential purpose of guardianship is to replace an individual's authority to make decisions with the authority of a guardian when the individual does not have adequate capacity to make such decisions.

(4) Limiting the rights of the individual by appointing a guardian for him should not be undertaken unless it is clear that a guardian will give the individual a fuller capacity for exercising his rights.

(5) Guardianship should seek to preserve for the incompetent individual the opportunity to exercise those rights that are within his comprehension and judgment, allowing for the possibility of error to the same degree as is allowed to persons who are not incompetent. To the maximum extent of his capabilities, an incompetent individual should be permitted to participate as fully as possible in all decisions that will affect him.

"PART 2.

"Definitions.

"§ 35-1.7. *Definitions.*—When used in this Article:

(1) The term 'accounting' refers to the financial or status reports filed with the clerk, designated agency, respondent, or other person or party with whom such reports are required to be filed.

(2) The term 'clerk' means the clerk of the superior court of the county in which proceedings under this Article are brought or filed.

(3) The term 'designated agency' means the State or local human resources agency designated by the clerk in his order to prepare, cause to be prepared, or assemble the multidisciplinary evaluation and to receive, comment upon, and certify receipt of a financial or status report or to perform other functions as the clerk may order. A designated agency includes, without limitation, State, local, regional or area mental health, mental retardation, vocational rehabilitation, public health, diagnostic evaluation centers, social service, and developmental disabilities agencies.

(4) The term 'disinterested public agent' means an adult officer, agent, or employee of a State human resources agency who has no immediate responsibilities for providing services to a ward or the director or assistant directors of a local human resources agency. The fact that a disinterested public

agent is employed by a State or local human resources agency that provides financial assistance to a ward does not disqualify that person from being appointed a guardian.

(5) The term 'department' means the Department of Human Resources, unless the context requires otherwise.

(6) The term 'financial report' means the report filed by the guardian concerning all financial transactions, including receipts and expenditures of money of the ward, sale of the ward's property, or other transactions involving the ward's property.

(7) The term 'general guardian' means a guardian of both the estate and the person.

(8) The term 'guardian ad litem' means a guardian appointed pursuant to G.S. 1A-1, Rules of Civil Procedure, Rule 17(b) and (c).

(9) The term 'guardian of the estate' means a guardian appointed solely for the purpose of managing the property, estate, or business affairs of a ward.

(10) The term 'guardian of the person' means a legal guardian appointed solely for the purpose of performing duties relating to the care, custody, and control of a ward.

(11) The term 'incompetent adult' means an adult who lacks sufficient capacity to make or communicate important decisions concerning his person, family, or property because of mental illness, mental retardation, epilepsy, cerebral palsy, or autism.

The term 'incompetent child' means a minor who, other than by reason of his minority, is impaired to the extent that he lacks sufficient capacity to make or communicate important decisions concerning his person, family, or property because of mental illness, mental retardation, epilepsy, cerebral palsy, or autism.

(12) The term 'important decisions concerning his person, family, or property' means decisions by a ward concerning the furnishing of the necessities of life, including without limitation food, shelter, clothing, and medical care, for himself and his family, if any.

(13) The term 'indigent' refers to a person who is financially unable to secure legal representation and to provide all other necessary expenses of representation in an action brought under this Article.

(14) The term 'interested person' means any individual who has an interest or stake in the personal well-being or in the estate, property, or business affairs of a ward.

(15) The term 'interim guardian' means a guardian appointed under the provisions of G.S. 35-1.15.

(16) The terms 'legal guardian' or 'guardian' mean the guardian appointed by the clerk.

(17) The term 'mental health professional' has the same meaning as set out in G.S. 122-36(h).

(18) The term 'mental retardation professional' has the same meaning as set out in G.S. 122-36(i).

(19) The term 'multidisciplinary evaluation' means an evaluation of the respondent that is required to contain current medical, psychological, and social work evaluations and that may contain current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-

and-hearing, and communications-disorders. The evaluations are current if made not more than one year from the date on which a petition for guardianship is filed. The evaluation shall set forth the nature and extent of the ward's disability, and recommend a guardianship plan and program.

(20) The term 'person in loco parentis' means a person, other than a parent or legal, interim, or successor guardian, who has assumed the responsibility for the care, custody, and control of the ward. It includes, without limitation, foster parents, other persons having temporary or permanent care, custody, and control, and State or local government departments of social services or the department or any of its divisions having such care, custody, and control.

(21) The term 'physician' means a medical doctor who is duly licensed by this State to practice medicine.

(22) The term 'psychologist' means a person who is duly licensed by this State as a psychologist or is employed as a psychologist by the Department of Human Resources or any State or local agency under the department's supervision, operation or control.

(23) The term 'treatment facility' means the same as the term 'treatment facility' means under the provisions of G.S. 122-36(g) and G.S. 122-56.2(b), and it includes group homes, halfway houses and other community-based residential facilities for impaired adults.

(24) The term 'status report' means the report required by G.S. 35-1.31 to be filed by the guardian of the ward. A status report shall include a report of a recent medical and dental examination of the ward by one or more physicians or dentists, a report on the legal guardian's performance of his duties as set forth by this Article and in the order of the clerk authorizing the appointment of a legal guardian, and a report on the ward's condition, needs, and development. It also may contain, without limitation, reports of mental health or mental retardation professionals, psychologists, social workers, persons in loco parentis, a member of a multidisciplinary evaluation team, a designated agency, a disinterested public agent or agency, a guardian ad litem, a guardian of the estate, an interim guardian, a successor guardian, an officer, official, employee or agent of the department, or any other interested person, including reports from group home parents or supervisors if the ward lives in a group home, a report from an employer if the ward is employed in competitive employment, a sheltered workshop, a work activities center or in any other working capacity, and a report of a member of the staff of a treatment facility if the ward is a resident patient of one or an outpatient client of one.

(25) The term 'testamentary guardian' means a guardian appointed by the last will and testament of a parent of a ward.

(26) The term 'ward' means the adult person for whom a guardian has been appointed or is sought to be appointed.

"PART 3.

"Jurisdiction and Venue.

"§ 35-1.8. *Jurisdiction and venue; exclusive procedure.*—(a) The clerks of superior court have original jurisdiction of proceedings brought or filed under this Article. Venue for such proceedings is in the county where the proposed ward resides, has property, or is present or if the proposed ward is an inpatient or resident of a treatment facility, venue shall include the county in which the resident resided when admitted to the facility.

(b) This Article establishes the exclusive procedure for adjudicating the following adults to be incompetent, appointing guardians for them, and adjudicating the restoration of their competency: mentally retarded, epileptic, cerebral palsied or autistic persons. This Article also establishes an alternative procedure, in addition to those established by General Statutes Chapter 35, Article 2, for adjudicating mentally ill persons to be incompetent and for appointing guardians for them.

"§ 35-1.9. *Change of venue.*—Upon a petition of any of the parties or any interested person and upon a finding by the clerk before whom a proceeding under this Article was originally filed that, from all the facts and circumstances of the case, no hardship or prejudice will result to the proposed ward from a change of venue and that a change of venue will be convenient for all parties, or that the clerk is not disinterested in the proceedings, the clerk may order a change of venue.

"PART 4.

"Proceedings before Clerk.

"§ 35-1.10. *Petition before clerk.*—Any person may file a verified petition for the appointment of a guardian for any adult person by filing the same with the clerk.

"§ 35-1.11. *Costs in action.*—Costs shall be assessed, as in special proceedings, to the respondent in any action brought under this Article unless the respondent is indigent, in which case costs shall be borne by the Administrative Office of the Courts.

"§ 35-1.12. *Contents of petition.*—The petition shall set forth, to the extent known:

(1) the name, age, address, and county of residence of the proposed ward;

(2) the name, address, and county of residence of the petitioner, and his interest in the action;

(3) a general statement of the proposed ward's property, or that the ward is indigent, with an estimate of the value of any property, including any compensation, insurance, pension, or allowance to which he is entitled;

(4) a statement of the reason or reasons why the appointment of a guardian is sought;

(5) the name, address, and county of residence of the proposed ward's spouse, or, if none, adult children or next of kin, or, if none, person or persons acting in loco parentis;

(6) the name, address, and county of residence of all persons who may have any financial interest in the proceedings.

"§ 35-1.13. *Service of petition.*—A copy of the petition and the written notice of the time, date, and place set for a hearing on the petition shall be served by the sheriff on the proposed ward and on the person or persons designated in Section 35-1.12(5). Service shall be made as provided by G.S. 1A-1, Rules of Civil Procedure, Rule 4. A copy of the petition and the written notice of the time, date, and place set for a hearing on the petition shall be mailed by the court to all persons designated in Section 35-1.12(6). The clerk, on his own motion, may order notice to be served on any other person by mail.

"§ 35-1.14. *Subsequent service.*—Unless otherwise provided, all subsequent notices shall be served as provided by G.S. 1A-1, Rules of Civil Procedure, Rule 5.

"§ 35-1.15. *Appointment of interim guardian.*—(a) The petitioner or the person or persons designated in G.S. 35-1.12(5) may also file a verified petition with the clerk for the appointment of an interim guardian.

(b) The petition shall set forth facts tending to show that there exists an emergency constituting an imminent danger to the physical well-being of the proposed ward.

(c) Immediately upon receiving the petition for the appointment of an interim guardian, the clerk shall appoint counsel or guardian ad litem to represent the proposed ward if the petition alleges the ward is indigent. The clerk shall also immediately set a time, date, and place for a hearing on the petition. The petition and the order appointing counsel or guardian ad litem and setting the time, date, and place for the hearing shall be promptly served on the proposed ward and on his counsel or guardian ad litem, if any. The hearing shall be set for a date no later than 15 days after the petition has been served on the proposed ward.

(d) If at the hearing the clerk finds that the proposed ward is an incompetent adult and in an emergency constituting an imminent danger to his physical well-being, he shall appoint an interim guardian and set forth his powers and duties. The powers and duties of the interim guardian shall extend only so far as necessary to meet the emergency. The interim guardian shall be a guardian of the person and not of the estate of the ward. The interim guardian shall not be required to post a bond. The interim guardianship shall terminate upon the clerk's disposition of the petition for the appointment of a guardian filed under G.S. 35-1.10. No multidisciplinary evaluation shall be ordered in any proceedings for the appointment of an interim guardian.

"§ 35-1.16. *Rights to counsel, evaluation, and jury; hearing on petition.*—(a) Right to counsel. The proposed ward is entitled to be represented by counsel of his own choice or by court-appointed counsel if he is indigent.

If the petition filed under G.S. 35-1.10 alleges that the proposed ward is indigent, and no counsel or guardian ad litem has been appointed under G.S. 35-1.15, the clerk shall immediately appoint counsel to represent him unless the clerk has reason to believe he is not indigent.

If the proposed ward for whom counsel has been appointed seeks to waive the right to counsel and if the clerk determines at the hearing on the petition that he lacks capacity to waive the right to counsel but does not want counsel, the clerk shall appoint a guardian ad litem, pursuant to G.S. 1A-1, Rules of Civil Procedure, Rule 17.

The fees of court-appointed counsel and guardians ad litem shall be borne by the Administrative Office of the Courts.

(b) Right to multidisciplinary evaluation. The clerk, the proposed ward, his counsel or the guardian ad litem, or the petitioner may require a multidisciplinary evaluation of the ward to be performed and filed in the proceedings. If no such evaluation is requested, none shall be performed.

The request by the petitioner, the proposed ward, or his counsel or guardian ad litem for a multidisciplinary evaluation shall be made in writing filed with the clerk. They shall make their request within 10 days after the petition is filed, or after counsel has filed his appearance or the guardian ad litem has been appointed, whichever is later.

If a multidisciplinary evaluation is requested, the clerk shall name a designated agency and order it to prepare or cause to be prepared or to assemble

a current multidisciplinary evaluation of the proposed ward. The agency shall file the report of the evaluation with the clerk and shall send copies to the petitioner and the proposed ward not later than 30 days after the agency receives the order of the clerk. The clerk may order an extension of the 30-day period upon good cause shown by the agency.

Upon receipt of the report of the multidisciplinary evaluation, the clerk shall set a time, date, and place for a hearing to determine whether the proposed ward is incompetent and shall notify all interested parties of the time, date, and place for the hearing.

The cost of the multidisciplinary evaluation shall be borne by the respondent unless he is indigent, in which case it shall be borne by the department.

The proposed ward may obtain other evaluations at his own expense. If the clerk finds that the proposed ward is indigent and if the proposed ward requests that he be evaluated by other mental health or mental retardation professionals, the clerk, upon good cause shown, may order that the proposed ward be so evaluated. The cost of those evaluations shall be borne by the department.

The report of the multidisciplinary evaluation and other evidence, if any, shall be considered at the hearing held by the clerk.

If no multidisciplinary evaluation has been requested, the clerk shall set a time, date, and place for a hearing and notify all interested parties.

The hearing shall be held not less than 10 days after the notice of the hearing is served and not before the clerk receives the multidisciplinary evaluation, if any.

Upon disposition of the proceedings before the clerk or any appeal, the clerk shall send all copies of the multidisciplinary evaluation to the designated public agency, which shall file them among its records on the ward.

(c) Right to jury trial. At the hearing, the proposed ward has a right, upon request by him, his counsel, or the guardian ad litem, to trial by jury. The jury shall be composed of 12 persons chosen from the jury list of the county in accordance with the provisions of Chapter 9 of the General Statutes. A jury must be requested not later than five days before the day on which the hearing is set. The proposed ward, his counsel, or the guardian ad litem may waive this right by written notice filed with the clerk and their failure to timely request trial by jury constitutes a waiver of the right.

(d) Open hearings. The hearing shall be open to the public unless the proposed ward, his counsel, or the guardian ad litem requests otherwise. The record of the hearing, including without limitation any documentary testimony introduced at the hearing and the report of the multidisciplinary evaluation, shall be open to the public unless, for good cause shown, the clerk, upon petition of the proposed ward, his counsel, or the guardian ad litem, orders otherwise.

(e) Right to present evidence. The petitioner and the proposed ward are entitled to present oral testimony or documentary evidence at the hearing, subpoena witnesses and the production of documents, and examine and cross-examine witnesses.

(f) Clerk's finding. If the clerk or jury shall find by the greater weight of the evidence that the proposed ward is an incompetent adult, the clerk shall appoint a guardian. If the clerk or jury does not so find, the clerk shall dismiss the petition.

(g) Clerk's order. After considering all the evidence and having found the proposed ward is an incompetent adult, the clerk may enter an order setting forth:

(1) findings on the nature and extent of the ward's incompetency;

(2) the powers and duties of the guardian or guardians regarding the person or the estate of the ward, or both; such powers and duties shall include, unless the clerk provides to the contrary, the powers and duties of guardians with respect to the person, as provided under G.S. 35-1.34, and with respect to the estate, as provided under G.S. 35-1.35. The clerk may order that the ward retains certain legal rights and privileges to which he was entitled before he was adjudged incompetent; and

(3) whether there shall be one or more guardians, his or their identity, and, if more than one, who shall be guardian of the person and who shall be guardian or guardians of the estate.

"§ 35-1.17. *Hearing before clerk on appointment of guardian.*—For the purposes of determining who the guardian or guardians shall be, the clerk shall receive whatever testimony is offered.

"§ 35-1.18. *Clerk to issue letters of appointment.*—The clerk shall issue to the guardian or guardians letters of appointment signed by him and sealed with his seal of office. In all cases, the clerk shall specify in his order whether the guardian, or, if there is more than one guardian, which of the guardians, shall be entitled to and have control of the ward's estate.

"§ 35-1.19. *Bond.*—The Secretary of the Department of Human Resources shall require, or purchase, in such amounts as he deems adequate and proper, individual or blanket bonds for all disinterested public agents appointed to be guardians, as provided by G.S. 35-1.28(d), and whether they serve as guardians of the estate, of the person, or of both, or one blanket bond covering all such agents, such bond or bonds to be conditioned upon faithful performance of their duties as guardians and made payable to the State. The premiums shall be paid by the State.

In all cases in which the clerk appoints a general guardian or a guardian of the person, the clerk shall require the guardian to post a bond in the minimum amount of two thousand dollars ($2,000). The clerk shall require the guardian of the estate to post a bond as provided by G.S. Chapter 33, Article 2.

"§ 35-1.20. *Appeals from clerk's orders.*—Appeals from the clerk shall be to the superior court de novo and thence to the Court of Appeals. An appeal does not stay the appointment of a guardian unless so ordered by the superior court or the Court of Appeals. The Court of Appeals may request the Attorney General to represent the petitioner on appeal.

"PART 5.

"Qualifications, Priorities, Duties,
and Liabilities of Guardians.

"§ 35-1.28. *Qualifications of guardians.*—(a) The clerk may appoint as guardian an individual, a domestic corporation, or a disinterested public agent. The person filing the petition may submit to the clerk a name or names of potential guardians.

(b) An individual to be appointed as a guardian shall be a resident of the State of North Carolina.

(c) A corporation that serves as a guardian shall be authorized by its charter to serve as a guardian or in similar fiduciary capacities.

(d) A disinterested public agent who is appointed by the clerk to serve as a guardian is authorized and required to do so. When the person ceases to qualify as a disinterested public agent, the clerk shall appoint a successor guardian. No public agent shall be appointed guardian until exhaustive efforts have been made to find individuals or corporations to be guardians.

"§ 35-1.29. *Priorities for appointment.*—The clerk shall consider appointing a guardian according to the following order of priority: an individual; a corporation; or a disinterested public agent.

"§ 35-1.30. *Rule-making power of Secretary of Human Resources.*—The Secretary of the Department of Human Resources has the authority to issue rules and regulations for the implementation of the guardianship responsibilities of disinterested public agents who are appointed guardians. The rules and regulations shall provide, among other things, that disinterested public agents shall undertake or have received training concerning the powers and responsibilities of guardians. They shall also set forth uniform statewide accounting procedures for disinterested public agents appointed guardians.

"§ 35-1.31. *Status reports.*—(a) Within six months after he is appointed, a guardian shall file an initial status report with the designated agency and the ward.

(b) The guardian shall file his second status report with the designated agency and the ward one year after he is appointed, and he shall file all subsequent status reports annually thereafter.

(c) All status reports shall be filed under the oath or affirmation of the guardian that the report is complete and accurate so far as he is informed and can determine.

"§ 35-1.32. *Duties of designated agency.*—(a) Within 30 days after it receives either a financial or status report from a guardian, the designated agency shall certify to the clerk that it has reviewed the report and shall mail a copy of its certification to the guardian.

(b) At the same time, it may

(1) send its written comments on the report to the clerk, the guardian, or any other person who may have an interest in the ward's welfare;

(2) notify the guardian that it is able to help the guardian in the performance of his duties;

(3) petition the clerk for an order requiring the guardian to perform the duties imposed on him by the clerk or this Article if it appears that the guardian is not performing those duties;

(4) petition the clerk for an order modifying the terms of the guardianship or the guardianship program or plan if it appears that such should be modified;

(5) petition the clerk for an order removing the guardian from his duties and appointing a successor guardian if it appears that the guardian should be removed for cause;

(6) petition the clerk for an adjudication of restoration to competency pursuant to G.S. 35-1.38; or

(7) petition the clerk for any other appropriate orders.

(c) If the designated agency files such a petition, it shall cause the petition to be signed and acknowledged by the officer, official, employee, or agent who has personal knowledge of the facts set forth in the petition, and it shall set forth all facts known to it that tend to support the relief sought by the petition.

(d) The clerk shall take action upon the petition pursuant to the provisions of G.S. 35-1.37, G.S. 35-1.38, and G.S. 35-1.39.

"§ 35-1.33. *Procedure to compel status reports.*—The procedures for compelling the guardian to file status reports is the same as set forth in G.S. 35-1.35 with respect to compelling the guardian to file financial reports.

"§ 35-1.34. *General powers and duties of guardians with respect to the person.*—(a) A guardian of the person or general guardian has the following powers and duties:

(1) To the extent that it is not inconsistent with the terms of any order by a court of competent jurisdiction relating to the admission, detention, or commitment of the ward, he is entitled to custody of the person of his ward and may establish the ward's place of domicile within or without this State. In arranging for a place of domicile, the guardian shall give preference to places within this State over places not within this State if both in- and out-of-state places are substantially equivalent. He also shall give preference to places that are not treatment facilities; if the only available and appropriate places of domicile are treatment facilities, he shall give preference to community-based treatment facilities, such as group homes or nursing homes, over treatment facilities that are not community-based, such as residential hospitals for the mentally ill as established and provided for by Article 1 of General Statutes Chapter 122 or residential centers for the mentally retarded as established and provided for by Article 9 of General Statutes Chapter 122.

(2) He shall make provision for the care, comfort, and maintenance of his ward and shall arrange for his training, education, employment, and rehabilitation or habilitation. He shall take reasonable care of his ward's personal property.

(3) He may commence and defend against any judicial action in the ward's name.

(4) He may give any consent or approval that may be necessary to enable the ward to receive medical, legal, psychological, or other professional care, counsel, treatment, or service. He also may give any other consent or approval that may be required or desirable. He may petition the clerk for the clerk's concurrence in the consent or approval.

(b) A guardian of the person is entitled to be reimbursed out of the ward's estate for expenditures incurred in the performance of his duties.

(c) The guardian of the person and a general guardian shall not be liable, by reason of his authorizing or giving any consent or approval necessary to enable the ward to receive legal, psychological, or other professional care, counsel, treatment, or service or other consent or approval that may be required or desirable, for damages to the ward or his estate resulting from the negligence or other acts of a third person if the guardian has acted within the limits imposed on him by this Article or the clerk or both. A guardian of the person and a general guardian shall not be liable for damages to the ward or his estate by reason of authorizing medical treatment or surgery for his ward if the guardian acted after consulting with the ward's physician, acted in good faith, was not negligent, and acted within the limits imposed on him by this Article or the clerk or both.

"§ 35-1.35 *Powers and duties of guardians with respect to the estate.*—A general guardian and a guardian of the estate shall have all the powers and duties under Articles 2, 3, 4, 5, 5A, 5B, and 5C of Chapter 35 of the General Statutes and by Articles 2, 3, 4, and 5 of Chapter 33 of the General Statutes unless the provisions of this Chapter are inconsistent therewith, in which case the provisions of this Chapter shall prevail, or unless the provisions of the order of the clerk appointing a guardian are inconsistent therewith, in which case the provisions of the clerk's order shall prevail.

"§ 35-1.36. *Reports filed with designated agency.*—A guardian shall simultaneously file with the designated agency all reports that he is required to file with the clerk.

"§ 35-1.37. *Clerk's continuing jurisdiction over guardians.*—(a) Upon appointment of a guardian, the clerk shall retain jurisdiction of the matter in order to assure compliance with his orders and those of the superior court. He shall have authority to remove a guardian for cause and he shall appoint a successor guardian after removal, death, or resignation of a guardian. He shall have authority to determine disputes between guardians and to adjust the amount of the guardian's bond.

(b) The clerk shall follow the criteria set forth in G.S. 35-1.28 and G.S. 35-1.29 in appointing a successor guardian.

(c) Any party to the original proceeding and any other interested person may petition the clerk to exercise the authority conferred on him by this section.

"§ 35-1.38. *Clerk's continuing jurisdiction over proceedings.*—(a) Any party to the original proceeding and any other interested person may petition the clerk for modification or termination of his order or for consideration of any matter pertaining to the guardianship.

(b) He may order a multidisciplinary evaluation or other evaluation to be made.

(c) When a petition for an adjudication for restoration to competency has been filed, the clerk shall notify the ward, his guardian or guardians, and any other parties to the original proceeding that a petition has been filed, shall set a date for a hearing on the petition and give notice of that date to the aforesaid persons, afford the ward the right to trial by jury pursuant to G.S. 35-1.16(c), hold an open hearing pursuant to G.S. 35-1.16(d), afford the ward and other parties the right to present evidence pursuant to G.S. 35-1.16(e), and, upon a finding that the ward is no longer an incompetent adult, enter an order adjudicating that the ward is restored to competency and the ward's guardian or guardians are discharged.

"§ 35-1.39. *Subsequent hearings.*—(a) A hearing shall be held pursuant to a petition filed under G.S. 35-1.37 or G.S. 35-1.38. Ten days' notice shall be given to the parties to the original proceedings and may be given to any other interested persons known to the petitioner or to the clerk.

(b) Unless inconsistent with G.S. 35-1.37 or G.S. 35-1.38, the provisions of G.S. 35-1.16 through G.S. 35-1.21 shall be applicable to the hearing.

(c) If an emergency exists which threatens the physical well-being of the ward, the clerk may enter *ex parte* an appropriate order pending disposition of the matter at the hearing.

"PART 6.

"Testamentary Appointment of Guardians.

"§ 35-1.41. *Testamentary appointment.*—(a) Any person authorized by law to appoint a guardian for a minor by his last will and testament or other writing may direct that the guardian appointed by him for his incompetent child shall petition the clerk at any time during the six months before the child reaches majority for appointment of a guardian under the provisions of this Article. If so directed, the guardian shall timely file such a petition. Notwithstanding the absence of such provision, a guardian appointed by a last will and testament or other writing for an incompetent child may petition the clerk at any time during the six months before the child reaches majority, or thereafter, for the appointment of a guardian under the provisions of this Article.

(b) A testamentary guardian who files such a petition shall set forth his desire to be appointed or not as guardian. Such a guardian shall be considered by the clerk if the guardian desires to serve.

(c) Notwithstanding the appointment of a testamentary guardian for a minor, any person may petition for the appointment of a guardian for an incompetent child under this Article six months or less before the child reaches majority."

Sec. 2. G.S. 7A-451(a) is amended by adding a new subsection (12) to read as follows:

"(12) A proceeding to find a person incompetent under Chapter 35, Article 1A, of the General Statutes."

Sec. 3. G.S. 108-106.2(c) is amended by adding after the words "G.S. 33-7" at the end of the next to last sentence the words "or, if applicable, Article 1A, Chapter 35".

Sec. 4. Chapter 33 of the General Statutes is amended as follows:

a. G.S. 33-1 is amended by striking the words "idiots, lunatics," and "and inmates of the Caswell School" on lines 4 and 5 and inserting the words "incompetents or" following the word "infants" on line 4 and by striking the words "idiots, lunatics" on line 6 and substituting the word "incompetents".

b. G.S. 33-6 is amended by striking the words "during minority, inebriety, idiocy or lunacy" in line 4, striking the words "orphan's, inebriate's, idiot's, or lunatic's" and substituting the word "ward's" on line 5, and striking the words on line 9 "idiot, lunatic" and inserting the word "incompetent".

c. G.S. 33-7 is amended by striking the words ", idiot, inebriate, lunatic, or inmate of the Caswell School" on lines 3, 5, 6, 11, 12, 14 and 15 and inserting in their place the words "or incompetent" in each instance.

d. G.S. 33-12 is amended by striking the words ", idiot, lunatic, insane person, or inebriate" on lines 2, 3, 6, 7 and 8 and inserting in their place the words "or incompetent" in each case.

e. G.S. 33-13 is amended by striking the words ", idiot, lunatic, insane person" on line 22 and inserting in their place the words "or incompetent".

f. G.S. 33-15 is amended by striking the words ", idiots, lunatics or insane persons" on lines 1 and 2 and inserting the words "or incompetents" in their place.

g. G.S. 33-18 is amended by striking the words ", idiot, lunatic, insane person" on lines 2 and 3 and inserting the word "incompetent" in their place.

h. G.S. 33-25 is amended by striking all words after the word "fiduciary" in line 2 through "appointed," in line 5.

i. G.S. 33-27 is amended by striking the words "of any minor child or of an idiot, lunatic, inebriate or insane person" in lines 2 and 3 and by striking the

words"any such minor child, idiot, lunatic, insane person or inebriate" in line 7 and substituting the words "the ward".

j. G.S. 33-47(1) is amended by striking the words "idiot, lunatic, insane person" and substituting the word "incompetent".

k. Article 6 of Chapter 33 is amended by adding a new section, G.S. 33-47.1, to read as follows:

"§ 33-47.1. *Article applicable only to minors.*—This Article shall not apply to adults found incompetent under Article 1A, Chapter 35 of the General Statutes."

l. G.S. 33-48 is amended by striking the words "infant", "idiot", "lunatic" and "insane person" wherever they appear and substituting for them the words "ward" on lines 14 and 16 only.

m. G.S. 33-49.1 is amended by striking the words", mental defective, mentally disordered person," wherever they appear.

n. G.S. 33-54 is amended by striking the words "idiot, lunatic or insane person" and substituting for them the words "incompetent person".

Sec. 5. Chapter 35 of the General Statutes is amended as follows:

a. G.S. 35-3.1 is amended by striking the words "insane or" in subdivision (2), the words "or insane" in subdivision (3), the words "insane person or" in the second and third paragraphs and the words "or insanity" and "insane person or" in the third paragraph.

b. G.S. 35-6 is amended by striking the words "of nonsane mind" and substituting the word "incompetent".

c. G.S. 35-8 is amended by striking all the words following "person" in line 2 through the word "causes," on line 5.

d. G.S. 35-9 is amended by striking the words "of the inebriate, lunatic, or incompetent".

e. G.S. 35-10 is amended by striking the words "mental defective," and "mentally disordered person" in the first sentence and substituting for the latter the words "person found incompetent".

f. G.S. 35-11 is amended by striking the words "mental defective", and "mentally disordered person" in the first sentence and substituting for the latter the words "person found incompetent".

g. G.S. 35-20 is amended by striking the word "nonsane" in the first and second sentences and substituting for it the word "incompetent" and by striking the word "insanity" in the second sentence and substituting for it the word "incompetency".

h. G.S. 35-21 is amended by striking the word "nonsane" and substituting for it the word "incompetent".

i. G.S. 35-23 is amended by striking the word "nonsane" and substituting for it the word "incompetent".

j. G.S. 35-24 is amended by striking the word "nonsane" and substituting for it the word "incompetent".

k. G.S. 35-2 is amended as follows: by deleting "inquisition of lunacy;" in the catch line; on lines 2 and 3, by deleting the words "mental defective, inebriate, or mentally disordered, or"; on line 4, by adding the words "or inebriate" after the word "affairs", and by deleting the words "or other cause"; on line 6, by deleting the words "supposed mentally defective, inebriate, or mentally disordered"; on lines 8 and 9, by deleting the words "supposed mentally defective, inebriate or mentally disordered"; on line 16, by deleting

the words "a mental defective," and the words "mentally disordered,"; on line 17, by deleting the word "person"; on lines 18 and 19, by deleting the words "the supposed mental defective, inebriate, mentally disordered, or incompetent person" and substituting for them the words "the ward"; on lines 22 and 23, by deleting the words "supposed mental defective, inebriate, mentally disordered, or incompetent"; and on the third and fourth lines of the third paragraph, by deleting the words "a mental defective," and the words ", mentally disordered or" and the word "person".

l. G.S. 35-2 is amended by adding a new sentence at the end of the first paragraph to read as follows:

"The clerk shall appoint a guardian ad litem to represent the supposed inebriate or incompetent person."

m. G.S. 35-2.1 is amended by deleting the words "insane or" in lines 2 and 5.

n. G.S. 35-3 is amended as follows: by deleting the words "from hospital for insane or training school" in the catch line; on line 2 by deleting the words "asylum or hospital for the insane" and inserting for them the words "hospital for the mentally ill"; by deleting the words "or State training school" on lines 2 and 3; on line 5 by deleting the words "or training school"; on line 6 by deleting the words "of insane mind and memory or mentally retarded" and inserting for them the words "mentally ill"; on line 9 by deleting the words "or training school"; on lines 10 and 11 by deleting the words "idiot, lunatic or insane"; on lines 21 and 22 by deleting the words "idiots," and ", lunatics,".

Sec. 6. G.S. Chapter 108 is amended by adding a new section, G.S. 108-102, to read as follows:

"§ 108-102. *Social Services officials and employees as public guardians.*—The director and assistant directors of social services of each county are authorized to serve as guardians for adults adjudicated incompetent under the provisions of G.S. Chapter 35, Article 1A, and they shall do so if ordered to serve in that capacity by the clerk of the superior court having jurisdiction of a guardianship proceeding brought under that Article."

Sec. 7. G.S. Chapter 122 is amended by adding a new section, G.S. 122-24.1, to read as follows:

"§ 122-24.1. *Mental Health officials and employees as public guardians.*—The officials and employees of the State Department of Human Resources, Division of Mental Health Services, or any successor division or agency thereof, and the director and assistant directors of local mental health programs or clinics established under G.S. Chapter 122, Article 2A, and of area mental health programs or clinics established under G.S. Chapter 122, Article 2C, are authorized to serve as guardians for adults adjudicated incompetent under the provisions of G.S. Chapter 35, Article 1A, and they shall do so if ordered to serve in that capacity by the clerk of the superior court having jurisdiction of a guardianship proceeding brought under that Article."

Sec. 8. This act shall become effective on March 1, 1978, and shall apply only to appointments made on or after that date.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

S. B. 459 **CHAPTER 726**

AN ACT TO PROMOTE AND PROTECT THE WELFARE OF THE PEOPLE OF THE STATE OF NORTH CAROLINA BY PREVENTION AND ELIMINATION OF DISCRIMINATORY EMPLOYMENT PRACTICES AND POLICIES BASED UPON RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, SEX OR HANDICAP.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new Article 49 as follows:

"ARTICLE 49.

"Equal Employment Practices.

"§ 143-416.1. *Short title.*—This Article shall be known and may be cited as the Equal Employment Practices Act.

"§ 143-416.2. *Legislative declaration.*—It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, sex or handicap by employers which regularly employ 15 or more employees.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general.

"§ 143-416.3. *Investigations, conciliations.*—The Human Relations Council in the Department of Administration shall have the authority to receive charges of discrimination from the Equal Employment Opportunity Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended by Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout this process, the agency shall use its good offices to effect an amicable resolution of the charges of discrimination."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

S. B. 468 **CHAPTER 727**

AN ACT TO AMEND CHAPTER 96 OF THE GENERAL STATUTES KNOWN AS THE EMPLOYMENT SECURITY LAW TO CONFORM WITH FEDERAL REQUIREMENTS, TO MAKE TECHNICAL IMPROVEMENTS AND CORRECTIONS, AND TO REMOVE OUTDATED AND INCONSISTENT PROVISIONS FROM THE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-1, as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding the following sentence at the end thereof:

"Any reference to the Unemployment Compensation Commission shall be deemed a reference to the Employment Security Commission and all powers, duties, funds, records, etc., of the Unemployment Compensation Commission are transferred to the Employment Security Commission."

Sec. 2. G.S. 96-1.1 is deleted in its entirety.

Sec. 3. G.S. 96-1.2 is deleted in its entirety.

Sec. 4. G.S. 96-1.3 is deleted in its entirety.

Sec. 5. G.S. 96-1.4 is deleted in its entirety.

Sec. 6. G.S. 96-1.5 is deleted in its entirety.

Sec. 7. G.S. 96-3(b), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by adding the following sentence to the end thereof:

"Notwithstanding any other provision of this Chapter, administrative organization of the agency shall be in accordance with that which the commission finds most desirable in order to perform the duties and functions of the agency."

Sec. 8. G.S. 96-4(h), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended on line 2 by deleting the words "of an appeal tribunal".

Sec. 9. G.S. 96-4(m), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended as follows:

(a) By deleting the sentence beginning on line 10 with the word "Hearings" and replacing it with the following:

"Hearings may be before the Commission or a Deputy Commissioner and shall be held in the central office of the Commission or at any other designated place within the State. They shall be open to the public and shall consist of a review of the evidence taken by a hearing officer designated by the Commission and a determination of the law applicable to that evidence."

(b) On lines 17 and 18 by deleting the words "stenographically reported" and inserting the word "recorded" in lieu thereof.

(c) On line 23 by deleting the words "in Raleigh."

(d) On line 24 by adding after the word "Commission" the words "or a Deputy Commissioner".

(e) On line 45 by deleting the colon at the end of the word "business", and adding the following: ",or, unless the appellee objects after being given reasonable opportunity to object, to a Judge of the Superior Court of Wake County:".

Sec. 10. G.S. 96-4(q), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is rewritten to read as follows:

"Notices of hearing shall be issued by the Commission or its authorized representative and sent by registered mail, return receipt requested, to the last known address of any employing unit, employers, persons, or firms involved. The notice shall be sent at least 10 days prior to the hearing date and shall contain notification of the place, date, hour, and purpose of the hearing. Subpoenas for witnesses to appear at any hearing shall be issued by the Commission or its authorized representative and shall order him to appear at the time, date and place shown thereon. Any bond or other undertaking required to be given in order to suspend or stay any execution shall be given payable to the Employment Security Commission of North Carolina. Any such bond or other undertaking may be forfeited or sued upon as are any other undertakings payable to the State."

Sec. 11. G.S. 96-5(a), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended:

(a) On line 9 by changing the citation from G.S. 143-35 et seq. to G.S. 126-1 et seq.

(b) On line 26 by deleting the following: "subsequent to June 30, 1947,".

Sec. 12. G.S. 96-5(b), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended:

(a) On line 2 by deleting the following: "after June 30, 1941."

(b) On line 4 by deleting the words "as of that date" and the words "after that date".

(c) By deleting the last sentence thereof in its entirety.

(d) The citation in line 22 of subsection (c) of G.S. 96-5, "G.S. 143-35" is removed and replaced by the citation "G.S. 126-1".

Sec. 13. G.S. 96-5, as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by adding a new subsection (e) to read as follows:

"(e) Reed Bill Fund Authorization.

Subject to a specific appropriation by the General Assembly of North Carolina to the Employment Security Commission out of funds credited to and held in this State's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with Section 903 of the Social Security Act, the Commission is authorized to utilize such funds for the administration of the Employment Security Law, including personal services, operating and other expenses incurred in the administration of said law, as well as for the purchase or rental, either or both, of offices, lands, buildings or parts of buildings, fixtures, furnishings, equipment, supplies and the construction of buildings or parts of buildings, suitable for use in this State by the Employment Security Commission, and for the payment of expenses incurred for the construction, maintenance, improvements or repair of, or alterations to, such real or personal property. Provided, that any such funds appropriated by the General Assembly shall not exceed the amount in the Unemployment Trust Fund which may be obligated for expenditure for such purposes; and provided that said funds shall not be obligated for expenditure, as herein provided, after the close of the two-year period which begins on the effective date of the appropriation."

Sec. 14. G.S. 96-8(4), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended on lines 5 and 6 by deleting the following: ", on or subsequent to January 1, 1936," and inserting in lieu thereof the word "or".

Sec. 15. G.S. 96-8(5) a., as it appears in the 1975 Supplement to Volume 2C of the General Statutes, is amended:

(a) By deleting the first seven lines thereof.

(b) On line 8 by deleting the words "'employer' means" and by capitalizing the word "any".

Sec. 16. G.S. 96-8(5)g., as it appears in the 1975 Supplement to Volume 2C of the General Statutes, is amended by deleting the first seven lines thereof and inserting in lieu thereof the following: "Any employing unit with its principal place of business located outside the State of North Carolina which engages in business within the State of North Carolina and which".

Sec. 17. G.S. 96-8(5)i., as it appears in the 1975 Supplement to Volume 2C of the General Statutes, is amended on line 1 by deleting the following: ", after July 1, 1961,".

Sec. 18. G.S. 96-8(5)j., as it appears in the 1975 Supplement to Volume 2C of the General Statutes of North Carolina, is amended:

(a) On lines 1 and 2 by deleting the following: "and on and after January 1, 1972,".

(b) By deleting the last sentence therefrom.

Sec. 19. G.S. 96-8(5)k., as it appears in the 1975 Supplement to Volume 2C of the General Statutes, is amended on lines 1 and 2 by deleting the following: "and on and after January 1, 1972,".

Sec. 20. G.S. 96-8(5), as it appears in the 1975 Supplement to Volume 2C of the General Statutes of North Carolina, is amended as follows:

(a) By adding a new paragraph n. to read as follows:

"n. With respect to employment on and after January 1, 1978, any person or employing unit who (a) during any calendar quarter in the current calendar year or the preceding calendar year paid wages of twenty thousand dollars ($20,000) or more for agricultural labor, or (b) on each of some 20 days during the current or preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day. Provided, that with respect to agricultural labor performed by a crew on and after January 1, 1978, the crew leader shall be deemed an employer if (1) either of the requirements set forth in the first sentence of this paragraph are met; and (2) the crew members are not employed by another person within the meaning of the first sentence of this paragraph; (3) and if the crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by the crew leader. For purposes of this paragraph, the term 'crew leader' means an individual who (1) furnishes individuals to perform agricultural labor for any other person, (2) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and (3) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person."

(b) By adding a new paragraph o. to read as follows:

"o. With respect to employment on and after January 1, 1978, any person who during any calendar quarter in the current calendar year or the preceding calendar year paid wages in cash of one thousand dollars ($1,000) or more for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority."

(c) By adding a new paragraph p. to read as follows:

"p. With respect to employment on and after January 1, 1978, any state and local governmental employing unit, including the State of North Carolina, a county board of education, a city board of education, the State Board of Education, the Board of Trustees of The University of North Carolina, the board of trustees of other institutions and agencies supported and under the control of the State, any other agency of and within the State by which a teacher or other employee is paid, and any county, incorporated city or town, the light and water board or commission of any incorporated city or town, the board of alcoholic control of any county or incorporated city or town, county and/or city airport authorities, housing authorities created and operated under and by virtue of Chapter 157 of the General Statutes, redevelopment

commissions created and operated under and by virtue of Article 37, Chapter 160 of the General Statutes, county and/or city or regional libraries, county and/or city boards of health, district boards of health, any other separate, local governmental entity, and the retirement system."

(d) By adding a new paragraph q. to read as follows:

"q. With respect to employment on and after January 1, 1978, any nonprofit elementary and secondary school."

Sec. 21. G.S. 96-8(6)a., as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended:

(a) On line 1 by deleting the words and punctuation beginning with the word "prior" through the end of the line.

(b) By deleting all of line 2 thereof.

(c) On line 3 by deleting the following: "date, and any service performed after December 31, 1948,".

Sec. 22. G.S. 96-8(6)f.4., as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended on lines 1 and 2 by deleting the following therefrom: "after December 31, 1961,".

Sec. 23. G.S. 96-8(6)f.5., as it appears in the 1975 Replacement Volume 2C of the General Statutes, is hereby amended on line 2 by deleting the following: "on and after January 1, 1972,".

Sec. 24. G.S. 96-8(6)f., as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding a new paragraph 7. at the end thereof to read as follows:

"7. Services with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a State unemployment insurance fund, or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this Chapter."

Sec. 25. G.S. 96-8(6)f.6., as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended on line 3 by deleting the following therefrom: "after December 31, 1971,".

Sec. 26. G.S. 96-8(6), as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended:

(a) By rewriting subdivision g. thereof to read as follows:

"g. On and after January 1, 1978, the term 'employment' includes services performed in agricultural labor when a person or employing unit (a) during any calendar quarter in the current calendar year or the preceding calendar year pays wages of twenty thousand dollars ($20,000) or more for agricultural labor, or (b) on each of some 20 days during the preceding calendar year, each day being in a different calendar week, employs at least 10 individuals in employment in agricultural labor for some portion of the day. For purposes of this Chapter, the term 'agricultural labor' includes all services performed: (1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife; (2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is

performed on a farm; (3) in connection with the production or harvesting of crude gum (oleoresin) from a living tree, and the following products if processed by the original producer of crude gum from which derived; gum spirits of turpentine and gum resin, or in connection with the ginning of cotton or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes; or (4)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one half of the commodity with respect to which such service is performed; (B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in performance of service described in subparagraph (A), but only if such operators produced more than one half of the commodity with respect to which such service is performed. (C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; (D) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer. As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. Provided, such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act."

(b) By inserting a new sub-subdivision h. to read as follows:

"h. On and after January 1, 1978, the term 'employment' includes domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who pays cash remuneration of one thousand dollars ($1,000) or more on or after January 1, 1978, in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service."

(c) By inserting a new sub-subdivision i. to read as follows:

"i. On and after January 1, 1978, the term 'employment' includes service performed for any State and local governmental employing unit. Provided, however, that employment shall not include service performed (a) as an elected official; (b) as a member of a legislative body or a member of the judiciary, of a State or political subdivision thereof; (c) as a member of the State National Guard or Air National Guard; (d) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (e) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week."

(d) By adding a new sub-subdivision j. to read as follows:

"j. On and after January 1, 1978, the term 'employment' includes services performed in any calendar year by employees of nonprofit elementary and secondary schools."

Sec. 27. G.S. 96-8(6), as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding a new subsubdivision k. thereto to read as follows:

"k. The term employment shall not include:

1. Prior to January 1, 1978, services performed in the employ of this State, or of any political subdivision thereof, or any instrumentality of this State or its political subdivisions except from and after January 1, 1972, services performed for employers as defined in G.S. 96-8(5)j., and G.S. 96-11(c)(3), and except as otherwise provided in this Chapter.
2. Except with respect to service performed for an employer as defined in G.S. 96-8(5)j., service performed prior to January 1, 1978, in the employ of any other state or its political subdivisions, or of the United States Government, or of an instrumentality of any other state or states or their political subdivisions or of the United States and service performed in the employ of the United States Government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this Chapter, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state employment security law, all of the provisions of this Chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services: Provided, that if this State shall not be certified for any year by the Secretary of Labor under Section 3304 of the Federal Internal Revenue Code of 1954, the payments required of such instrumentalities with respect to such year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in G.S. 96-10(e) with respect to contributions erroneously collected.
3. Service with respect to which unemployment insurance is payable under an employment security system established by an act of Congress: Provided, that the Commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective 10 days after publication thereof in the manner provided in G.S. 96-4(b) for general rules, to provide potential rights to benefits under this Chapter, acquired rights to unemployment insurance under act of Congress, or who have, after acquiring potential rights to unemployment insurance, under such act of Congress, acquired rights to benefits under this Chapter.
4. Prior to January 1, 1978, service performed in agricultural labor as defined in G.S. 96-8(6)g.
5. Prior to January 1, 1978, domestic service in a private home, local college club, or local chapter of a college fraternity or sorority.
6. Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft by an individual if the individual is performing services on and in connection with such vessel or aircraft when outside the United States; or, service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged

in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by such individual as an ordinary incident to any such activity), except (i) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (ii) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the registered tonnage of merchant vessels under the laws of the United States).

7. Prior to January 1, 1978, services performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 18 in the employ of his father or mother; and on and after January 1, 1978, service performed by a child under the age of 21 in the employ of his father or mother or of a partnership consisting only of parents.
8. Service performed by an individual during any calendar quarter for any employing unit or an employer as an insurance agent or as an insurance solicitor, or as a securities salesman if all such service performed during such calendar quarter by such individual for such employing unit or employer is performed for remuneration solely by way of commission; service performed by an individual for an employing unit as a real estate agent or a real estate salesman as defined in G.S. 93-A(2) (G.S. 93A-2), provided, that such real estate agent or salesman is compensated solely by way of commission and is authorized to exercise independent judgment and control over the performance of his work.
9. Services performed in employment as a newsboy selling or distributing newspapers or magazines on the street or from house to house.
10. Except as provided in G.S. 96-8(6)f5(a), service covered by an election duly approved by the agency charged with the administration of any other State or federal employment security law in accordance with an arrangement pursuant to subdivision (1) of G.S. 96-4 during the effective period of such election.
11. Casual labor not in the course of the employing unit's trade or business.
12. Service in any calendar quarter in the employ of any organization exempt from income tax under the provisions of Section 501(a) of the Internal Revenue Code of 1954 (other than an organization described in Section 401(a) of said Internal Revenue Code of 1954) or under Section 521 of the Internal Revenue Code of 1954, if the remuneration for such service is less than fifty dollars ($50.00).
13. Service in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance.
14. Service performed by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution which normally

maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

15. Services performed (i) in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches; or (ii) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or (iii) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or (iv) as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training, unless a federal law, rule or regulation mandates unemployment insurance coverage to individuals in a particular work-relief or work-training program; (v) after December 31, 1971, by an inmate for a hospital in a State prison or other State correctional institution or by a patient in any other State-operated hospital, and services performed by patients in a hospital operated by a nonprofit organization shall be exempt; (vi) after December 31, 1971, in the employ of a hospital, if such service is performed by a patient of such hospital; (vii) after December 31, 1977, by an inmate of a custodial or penal institution."

Sec. 28. G.S. 96-8(9), as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is hereby rewritten to read as follows:

"(9) 'State' includes, in addition to the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands."

Sec. 29. G.S. 96-8(10), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is rewritten to read as follows:

"(10) Total and partial unemployment.

a. For the purpose of establishing a benefit year, an individual shall be deemed to be unemployed:

1. If he has payroll attachment but, during the payroll week for which he is requesting the establishment of a benefit year, he worked less than the equivalent of three customary scheduled full-time days in the establishment, plant, or industry in which he has payroll

attachment as a regular employee. If a benefit year is established, it shall begin on the Sunday of the calendar week within which the payroll week ending date falls.

2. If he has no payroll attachment on the date he reports to apply for unemployment insurance. If a benefit year is established, it shall begin on the Sunday of the calendar week with respect to which the claimant met the reporting requirements provided by Commission Regulation.

b. For benefit weeks within an established benefit year, a claimant shall be deemed to be:

1. Totally unemployed, irrespective of job attachment, if his earnings for such week, including payments defined in subparagraph c. below, would not reduce his weekly benefit amount as prescribed by G.S. 96-12(c).
2. Partially unemployed, if he has payroll attachment but during the payroll week for which he is requesting benefits he worked less than three customary scheduled full-time days in the establishment, plant, or industry in which he is employed and whose earnings from such employment (including payments defined in subparagraph c. below) would qualify him for a reduced payment as prescribed by G.S. 96-12(c).
3. Part-totally unemployed, if the claimant had no job attachment during all or part of such week and whose earnings for odd jobs or subsidiary work (including payments defined in subparagraph c. below) would qualify him for a reduced payment as prescribed by G.S. 96-12(c).

c. No individual shall be considered unemployed if, with respect to the entire calendar week, he is receiving, has received, or will receive as a result of his separation from employment, remuneration in the form of (i) wages in lieu of notice, (ii) accrued vacation pay, (iii) terminal leave pay, (iv) severance pay, (v) separation pay, or (vi) dismissal payments or wages by whatever name. Provided, however, if such payment is applicable to less than the entire week, the claimant may be considered to be unemployed as defined in subsections a. and b. of this paragraph.

d. An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the Commission may by regulation otherwise prescribe."

Sec. 30. G.S. 96-8(12), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended on line 1 by deleting from and including the first word "From" through the comma after the date "1941" and by capitalizing the word "wages".

Sec. 31. G.S. 96-8(13)a., as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended as follows:

(a) On line 1 by deleting from and including the first word "From" through the comma after the date "1941" and by capitalizing the word "wages".

(b) By rewriting the second sentence thereof to read as follows:

"The reasonable cash value of remuneration in any medium other than cash, and the reasonable amount of gratuities, including tips which an employee receives directly from a customer and reports to the employer and which the employer considers as salary for the purpose of meeting minimum wage

requirements, shall be estimated and determined in accordance with rules prescribed by the Commission: Provided, if the remuneration of an individual is not based upon a fixed period of duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week or for any calendar quarter for the purpose of computing an individual's right to unemployment benefits only shall be determined in such manner as may by authorized regulations be prescribed."

(c) By deleting from and including the word "performed" on line 20 through the comma after the date "1953" on line 21.

Sec. 32. G.S. 96-8(15), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by replacing the comma at the end of line 2 with a period and deleting the remainder of that subsection.

Sec. 33. G.S. 96-8(17), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by deleting present sub-subdivisions a. and b. and relettering sub-subdivision c. as a. and adding a new sub-subdivision b. to read as follows:

"b. As to claims filed on or after January 1, 1978, for claimants who did not have benefit years in progress, 'benefit year' shall mean the fifty-two week period beginning with the Sunday of the calendar week with respect to which an individual first registers for work and files a valid claim for benefits. The requirements of sub-subdivision a. above shall apply to such claims."

Sec. 34. G.S. 96-8(18), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by rewriting the last sentence thereof to read as follows:

"For benefit years established on and after January 1, 1978, the term 'base period' shall mean the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year as defined in G.S. 96-8(17)."

Sec. 35. G.S. 96-8(19), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by deleting the entirety of this subdivision and renumbering the following subdivisions (20), (21), and (22) to be (19), (20), and (21), respectively.

Sec. 36. G.S. 96-8, as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, as amended in the 1975 Supplement to Volume 2C of the General Statutes, is hereby amended by adding a new subdivision (22) at the end thereof:

"(22) With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subdivision, the term 'previously uncovered services' means services (a) which were not employment as defined in G.S. 96-8(6) and were not services covered pursuant to G.S. 96-11(c) at any time during the one-year period ending December 31, 1977; and (b) which (1) are agricultural labor as provided in G.S. 96-8(5)n. and G.S. 96-8 (6)g. or domestic service as provided in G.S. 96-8(5)o. and G.S. 96-8(6)h., or (2) are services performed by an employee of this State or of a local governmental unit, as provided in G.S. 96-8(5)p. and G.S. 96-8(6)i. or by an employee of a nonprofit educational institution which is not an institution of higher education, as provided in G.S. 96-8(5)r. and G.S. 96-8(6)j.; except to the extent that assistance

under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services."

Sec. 37. G.S. 96-9, as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended as follows:

(a) G.S. 96-9(a)(1) is amended by deleting after the comma following the word "hereof" in line 1 the following phrase: "on and after January 1, 1936,".

(b) G.S. 96-9(a)(1) is amended by placing a period after the word "employ" on line 8 and deleting the rest of the sentence.

(c) G.S. 96-9(a)(5) is amended by deleting the entire subdivision and substituting the following:

"Prior to January 1, 1978, the term 'wages' shall not include for the purposes of this section any remuneration in excess of four thousand two hundred dollars ($4,200) paid to any individual in a single calendar year by an employer with respect to employment.

Prior to January 1, 1978, for purposes of this section, the term 'wages' shall not include any remuneration paid to any employee in this State in excess of four thousand two hundred dollars ($4,200) paid to an individual by a single employer if the employer of that individual made contributions in another state or states upon the wages paid to such individual during the applicable calendar year, because of work performed in another state or states.

Prior to January 1, 1978, any successor employer as defined in G.S. 96-8(5)b for the purposes of this section shall pay no contributions on that part of remuneration earned by any individual in the employ of the successor employer which, when added to the remuneration previously paid by the predecessor employer exceeded the sum of four thousand two hundred dollars ($4,200) in a single calendar year, provided the individual was an employee of the predecessor and was taken over as an employee by the successor as a part of the organization acquired and, provided further, that the predecessor employer has paid contributions on the wages paid to such individual while in his employ during the year of acquisition and the account of the predecessor is transferred to the successor in accordance with G.S. 96-9(c)(4)a.

Beginning January 1, 1978, and thereafter, the taxable wage base of any employee whose wages are subject to taxation, whether totally or partially, by the State of North Carolina under any provision of this Chapter shall be the federally required tax base."

Sec. 38. G.S. 96-9(a)(4), as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended as follows:

By deleting the present subsection and substituting the following:

"Political subdivisions of this State may finance benefits paid to employees either by coming under the experience rating program provided in G.S. 96-9(b) or by coming into the program on a reimbursement basis in accordance with the provisions and conditions of G.S. 96-9(d). Any election made shall be binding upon the political subdivision so electing for a period of four years.

Sec. 39. G.S. 96-9, as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended as follows:

a. G.S. 96-9(b)(3) is amended by deleting paragraphs a., b., and c.

b. G.S. 96-9(b)(3) d. is amended by deleting the present *Experience Rating Formula* table and substituting the following schedule:

EXPERIENCE RATING FORMULA

When The Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)								
		A	B	C	D	E	F	G	H	I
	0.8%	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.5
0.8%	1.0	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.5	2.3
1.0	1.2	2.7	2.7	2.7	2.7	2.7	2.7	2.5	2.3	2.1
1.2	1.4	2.7	2.7	2.7	2.7	2.7	2.5	2.3	2.1	1.9
1.4	1.6	2.7	2.7	2.7	2.7	2.5	2.3	2.1	1.9	1.7
1.6	1.8	2.7	2.7	2.7	2.5	2.3	2.1	1.9	1.7	1.5
1.8	2.0	2.7	2.7	2.5	2.3	2.1	1.9	1.7	1.5	1.3
2.0	2.2	2.7	2.5	2.3	2.1	1.9	1.7	1.5	1.3	1.1
2.2	2.4	2.5	2.3	2.1	1.9	1.7	1.5	1.3	1.1	0.9
2.4	2.6	2.3	2.1	1.9	1.7	1.5	1.3	1.1	0.9	0.7
2.6	2.8	2.1	1.9	1.7	1.5	1.3	1.1	0.9	0.7	0.5
2.8	3.0	1.9	1.7	1.5	1.3	1.1	0.9	0.7	0.5	0.4
3.0	3.2	1.7	1.5	1.3	1.1	0.9	0.7	0.5	0.4	0.3
3.2	3.4	1.5	1.3	1.1	0.9	0.7	0.5	0.4	0.3	0.2
3.4	3.6	1.3	1.1	0.9	0.7	0.5	0.4	0.3	0.2	0.1
3.6	3.8	1.1	0.9	0.7	0.5	0.4	0.3	0.2	0.1	0.1
3.8	4.0	0.9	0.7	0.5	0.4	0.3	0.2	0.1	0.1	0.1
4.0	4.2	0.7	0.5	0.4	0.3	0.2	0.1	0.1	0.1	0.1
4.2	4.4	0.5	0.4	0.3	0.2	0.1	0.1	0.1	0.1	0.1
4.4	4.6	0.4	0.3	0.2	0.1	0.1	0.1	0.1	0.1	0.1
4.6	4.8	0.3	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1
4.8	5.0	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
5.0 and in excess thereof		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1

c. G.S. 96-9(b)(3)d. is further amended by adding a new paragraph at the end of the present subsection reading:

The *Experience Rating Formula* table in force in any particular year shall apply to all accounts for that calendar year subsequent replacement enactments notwithstanding.

d. G.S. 96-9(b)(3)e. is amended by deleting the last paragraph in subsubdivision e. and by deleting the present *Rate Schedule for Overdrawn Accounts Beginning with the Calendar Year 1966* and by substituting the following *Rate Schedule for Overdrawn Accounts Beginning with the Calendar Year 1978*:

RATE SCHEDULE FOR OVERDRAWN ACCOUNTS BEGINNING WITH THE CALENDAR YEAR 1978

When The Debit Ratio Is:

As Much As	But Less Than	Assigned Rate
0.0%	0.3%	2.9%
0.3	0.6	3.1
0.6	0.9	3.3
0.9	1.2	3.5
1.2	1.5	3.7
1.5	1.8	3.9
1.8	2.1	4.1
2.1	2.4	4.3
2.4	2.7	4.5
2.7	3.0	4.7

3.0	3.3	4.9
3.3	3.6	5.1
3.6	3.9	5.3
3.9	4.2	5.5
4.2 and over		5.7

e. G.S. 96-9(b)(3)e. is further amended by adding a new paragraph at the end of the subsection as follows:

The *Rate Schedule for Overdrawn Accounts Beginning with the Calendar Year 1966* in force in any particular calendar year shall apply to all accounts for that calendar year subsequent replacement enactments notwithstanding.

f. G.S. 96-9(b)(3) is amended by relettering paragraphs "d" through "h", as amended herein, to "a" through "e" respectively.

Sec. 40. G.S. 96-9(c)(1), as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by deleting the first sentence and substituting the following:

"Except as provided in subsection (d) hereof, the Commission shall maintain a separate account for each employer and shall credit his account with all voluntary contributions made by him and all other contributions which he has paid or is paid on his own behalf, provided that any voluntary contribution made by an employer under the provisions of G.S. 96-9(b)(3)c(d), and credited to his account, shall be credited to such account in an amount equal to eighty percent (80%) of the amount of such voluntary contribution."

Sec. 41. G.S. 96-9(c)(2)a., as it appears in the 1975 Replacement Volume 2C of the General Statutes, is deleted and the following substituted:

"a. Benefits paid shall be charged against the account of each base period employer in the proportion that the base period wages paid to an eligible individual in any calendar quarter by each such employer bears to the total wages paid by all base period employers during the base period, except as hereinafter provided in paragraphs b., c., and d. of this subdivision, G.S. 96-9(d)(2)c., and G.S. 96-12(e)G. Benefits paid shall be charged to employers' accounts upon the basis of benefits paid to claimants whose benefit years have expired."

Sec. 42. G.S. 96-9(c)(2)b., as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding the following paragraph:

"No benefit charges shall be made to the account of any employer who has furnished part-time work to an individual who, because of the loss of employment with one or more other employers becomes eligible for partial benefits while still being furnished part-time work by such employer on substantially the same basis and substantially the same amount as had been made available to such work during his base period whether the employments were simultaneous or successive."

G.S. 96-9(c)(2)b. is further amended by deleting the word "the" at the beginning of line 10 in that sub-subdivision and substituting the word "any".

Sec. 43. G.S. 96-9(c)(2), as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding a new paragraph e. at the end thereof to read as follows:

"e. 1. Any benefits paid to any claimant which are based on previously uncovered employment which are reimbursable by the federal government shall not be charged to the experience rating account of any employer.

2. For purposes of this paragraph previously uncovered employment for which benefits are reimbursable by the federal government means services performed before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978, or before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978, and to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (SUA) was not paid to such individuals on the basis of such service."

Sec. 44. G.S. 96-9(c)(4)a., as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by deleting the last sentence of the paragraph.

Sec. 45. G.S. 96-9(c)(4)b., as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding after the word "reduction" in the second paragraph of this subsection the following:

", reacquires the account he transferred or acquires the experience rating account of another employer,".

Sec. 46. G.S. 96-9, as it appears in the 1975 Replacement Volume 2C of the North Carolina General Statutes, is amended as follows:

(a) G.S. 96-9(d)(2)a. is amended by deleting on line 8 the words "on or after July 1, 1972" and substituting the following:

"until January 1, 1978. On and after that date advance payments shall be effective with respect to the federally required wage base."

(b) G.S. 96-9(d)(2)a. is amended further by adding two additional paragraphs to that subsection as follows:

"Beginning January 1, 1978, any employer making quarterly reports of employment to the Commission and if such employer is a newly electing reimbursement employer he shall pay contributions of one percent (1%) of taxable wages entered on such reports.

Any employer paying by reimbursement having been, prior to July 1, under the reimbursement method of payment for the preceding calendar year, shall continue to file quarterly reports but shall make no payments with those reports."

Sec. 47. G.S. 96-9(d)(2)d., as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is hereby amended by adding the following paragraph at the end of the present subsection:

"Beginning January 1, 1978, each employer paying by reimbursement shall have his account computed on computation date (August 1) and if there is a deficit shall be billed for an amount necessary to bring his account to one percent (1%) of his taxable payroll. Any amount of his account in excess of that required to equal one percent (1%) of his payroll shall be refunded. Amounts due from any employer to bring his account to a one percent (1%) balance shall be billed as soon as practical and payment will be due within 25 days from the date of mailing of the statement of amount due."

Sec. 48. G.S. 96-9(d), as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding a new subdivision (3) at the end thereof to read as follows:

"(3)a. Any benefits paid to any claimant which are based on previously uncovered employment which are reimbursable by the federal government shall not be charged to a nonprofit organization which makes payments to the State Unemployment Insurance Fund in lieu of contributions.

b. For purposes of this paragraph previously uncovered employment for which benefits are reimbursable by the federal government means services performed before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978, or before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978, and to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (SUA) was not paid to such individuals on the basis of such service."

Sec. 49. G.S. 96-9, as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by adding a new subsection (f) thereto to read as follows:

"(f)(1) On and after January 1, 1978, all benefits charged to a State or local governmental employing unit shall be paid to the Commission within 25 days from the date a list of benefit charges is mailed to the State or local governmental employing agency and the appropriate account(s) shall be credited with such payment(s).

(2) In lieu of paying for benefits by reimbursement as provided in subdivision (1) hereof, any State or local governmental employing unit may elect pursuant to rules and regulations established by the Commission to pay contributions on an experience rating basis as provided in G.S. 96-9 (a), (b), and (c).

(3) State or local governmental employing units paying for benefits as provided in subdivision (1) herein may establish pool accounts; provided, that such pool accounts are established and maintained according to the Rules and Regulations of the Commission.

(4) Any governmental entity paying by reimbursement shall not have any benefits paid against its account non-charged or forgiven."

Sec. 50. G.S. 96-10, as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended as follows:

(a) Subsection (a) is amended (1) after the period in line 5 by inserting the following:

"An additional penalty in the amount of ten percent (10%) of the taxes due shall be added, but said penalty shall in no event be less than five dollars ($5.00). Penalties and ..."

and by (2) reducing the first letter of the present word "Interest" to the lower case.

(b) Subsection (c) is amended by adding a second subparagraph as follows:

"A receiver of any covered employer placed into an operating receivership pursuant to an order of any court of this State shall pay to the Commission any contributions, penalties or interest then due out of monies or assets on hand or coming into his possession before any such monies or assets may be used in any manner to continue the operation of the business of the employer while it is in receivership."

(c) Subsection (g) is amended by adding a second paragraph to read as follows:

"There shall be added to the amount required to be shown as tax in the reports a penalty of five percent (5%) of the amount of such tax if the failure is not for more than one month with an additional five percent (5%) for each

additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent (25%) of the aggregate or five dollars ($5.00), whichever is greater.

(d) A new subsection (j) is added to read as follows:

"(j) The Commission shall have the power to reduce or waive any penalty provided in G.S. 96-10(a) or G.S. 96-10(g). The reason for any such reduction or waiver shall be made a part of the permanent records of the employing unit to which it applies."

Sec. 51. G.S. 96-11(c)(3)a., as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended as follows:

By adding after the comma following the date 1972 in line 1 the phrase "through December 31, 1977,".

Sec. 52. G.S. 96-12, as it appears in the 1975 Replacement Volume 2C of the North Carolina General Statutes, and as amended in the 1975 Supplement to Volume 2C of the General Statutes, is amended as follows:

(a) G.S. 96-12(b)(1)a. is deleted in its entirety.

(b) G.S. 96-12(b)(1)b. is amended by redesignating it G.S. 96-12 (b)(1)a.

(c) G.S. 96-12(b)(1)c. is amended by redesignating it G.S. 96-12(b)(1)b. and by adding at the end of the present sub-subdivision the following: "Provided, for all benefit years beginning after December 31, 1977, the allowable excess shall be ten percent (10%) of the average weekly wage in the high quarter of his base period."

(d) G.S. 96-12(e)A.(2) is amended by deleting the following sentence beginning on line 6:

"Subsequent to December 31, 1976, the indicator rate shall be four and one-half percent (4.5%)."

and adding in its stead:

"On and after January 1, 1977, there is a national 'on' indicator for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths per centum (4.5%). The rate of insured unemployment, for purposes of this paragraph, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period."

(e) G.S. 96-12(e)A.(3) is amended by deleting the last sentence beginning on line 6 which reads:

"Subsequent to December 31, 1976, the indicator rate shall be four and one-half percent (4.5%)."

and adding in its stead:

"On and after January 1, 1977, there is a national 'off' indicator for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths per centum (4.5%). The rate of insured unemployment, for purposes of this paragraph, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period."

(f) G.S. 96-12(e)A.(4) is amended as follows:

(1) In line 10 by deleting subparagraph designation "b." therefrom and by replacing the period at the end thereof with a comma and adding the word "or" after the comma.

(2) By adding a new subparagraph b. thereto to read as follows:

"b. equaled or exceeded five percent (5%)."

(g) G.S. 96-12(e)A.(5) is amended in line 10 as follows:

(1) By deleting the subparagraph designation "b." therefrom and by replacing the period at the end thereof with a comma and by adding the word "or" after the comma.

(2) By adding a new subparagraph b. thereto to read as follows:

"b. was less than five percent (5%)."

(h) G.S. 96-12(e)G. is amended as follows:

(1) In line 1 by replacing all of the language preceding the comma therein with the following language: "Prior to January 1, 1978,".

(2) By adding a second paragraph to read as follows:

"On and after January 1, 1978, the federal portion of any extended benefit shall not be charged to the account of any base period employer who pays contributions as required by this Chapter. All State portions of the extended benefits paid shall be charged to the account of governmental entities or other employers not liable for FUTA taxes who are the base period employers."

(i) G.S. 96-12 is amended by adding a subsection (f) to read as follows:

"(f) Any amount payable under any provision of this Chapter when applicable is subject to the retirement reduction required by G.S. 96-14(9)."

Sec. 53. G.S. 96-13, as it appears in the 1975 Supplement to Volume 2C of the General Statutes of North Carolina, is amended as follows:

(a) On line 1 by inserting between the dash and the word "An" the subsection designation (a).

(b) By redesignating present subdivisions (4) and (5) as subsections (b) and (c).

(c) By redesignating sub-subdivisions a. and b. of present subdivision (4) as (1) and (2) respectively.

(d) Subdivision (3) is amended by deleting in line 9 the words "that effective January 1, 1949,".

(e) G.S. 96-13 is amended by adding a new subsection (d) to read as follows:

"(d) Benefit entitlement of governmental entities that become subject to Employment Security Commission law effective January 1, 1978, will be administered in the same manner and under the same conditions of the laws of this Chapter as are applicable to individuals whose benefit rights are based on other service subject to this Chapter."

(f) G.S. 96-13 is amended by adding a new subsection (e) to read as follows:

"(e) Benefits shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performs such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the latter of such seasons (or similar periods)."

(g) G.S. 96-13 is amended by adding a new subsection (f) to read as follows:

"(f) Benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for

permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203 (a)(7) or Section 212 (d)(5) of the Immigration and Nationality Act). Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence."

Sec. 54. G.S. 96-15, as it appears in the 1975 Replacement Volume 2C of the North Carolina General Statutes, is amended as follows:

(a) G.S. 96-15(b)(1) is amended by removing the words "a deputy" appearing in line 16 and substituting the words "an adjudicator".

(b) G.S. 96-15(b)(2) is amended by striking the entire subsection and substituting the following:

"(2) Hearings before adjudicator. When a protest is made by the claimant to his initial determination or a question or issue is presented or raised as to the eligibility of a claimant for benefits under G.S. 96-13 herein, or whether any disqualification shall be imposed by virtue of G.S. 96-14 of this Chapter, or benefits denied, or his account adjusted pursuant to G.S. 96-18 of this Chapter, the claim shall be referred to an adjudicator who shall afford the parties an opportunity to present their positions at an informal conference. The adjudicator can consider any matter, material or statement deemed to be pertinent to the issues, including telephone inquiries when desirable and, after consideration, shall render a conclusion as to the benefit entitlements of the claimant involved. The adjudicator shall notify the claimant and any other interested party of the conclusion reached. Unless the claimant or any other interested party within 10 days after notification of the conclusion of the adjudicator, whether the conclusion be delivered manually or mailed, files an appeal to such conclusion, the conclusion shall be final and benefits paid or denied in accordance therewith.

The Commission shall be deemed an interested party.

The Commission may remove unto itself or transfer it to an appeals referee the proceedings of any claim pending before an adjudicator.

On out-of-State claims filed by a claimant in another state against this State or in cases involving the failure of the claimant to meet any procedural requirement pertaining to the filing of the claimant or denial or adjustment of the account under G.S. 96-18, the adjudicator will not be required to give notice of the time of consideration."

(c) Subsection (c) is deleted and the following substituted:

"Unless an appeal from the adjudicator is withdrawn, an appeals referee shall set a hearing in which the parties are given reasonable opportunity to be heard. The appeals referee may affirm or modify the conclusion of the adjudicator or issue a new decision in which findings of fact and conclusions of law will be set out. The evidence taken at the hearings before the appeals referee shall be recorded and the decision of the appeals referee shall be deemed to be the final decision of the Commission unless within 10 days after the date of notification of, or mailing of the decision, further appeal is initiated. Should the appeals referee uphold the conclusion of the adjudicator, any benefits paid as the result

of that decision shall not be charged to any employer's account if that decision is finally reversed. Any reference to 'appeals deputy' or 'appeals tribunal' in this Chapter shall be deemed to mean 'appeals referee'."

(d) G.S. 96-15(d) is amended by deleting it in its entirety.

(e) G.S. 96-15(e) is amended by relettering to subsection (d) and by removing the present language and substituting the following:

"Review by the Commission. The Commission or deputy commissioner may on its own motion affirm, modify, or set aside any decision of an appeals referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it, or may provide for group hearings in such cases as the Commission or deputy commissioner may deem proper. The Commission or deputy commissioner may remove to itself or transfer to another appeals referee the proceedings on any claim pending before an appeals referee. The Commission shall promptly notify the interested parties of its findings and the decision. In all Commission matters heard by a deputy commissioner, the decision of the deputy commissioner shall constitute the decision of the Commission; except, the Commission may remove unto itself, upon its own motion, any claim pending for rehearing and redetermination, provided such removal is done prior to the expiration of appeal period applicable to the decision of the deputy commissioner."

(f) Subsection (f) is renumbered as subsection (e) and is amended by deleting in line 6 the following sentence:

"A full and complete record shall be kept of all proceedings in connection with a disputed claim."

(g) Subsection (h) is amended by adding after the "period" following the word "residence" in line 5 the following:

"Unless the claimant objects, after being afforded reasonable opportunity to do so, to the Superior Court of Wake County."

(h) Subsections (g), (h), (j) and (k) of the present section are relettered (f), (g), (i) and (j), respectively.

Sec. 55. G.S. 96-18, as it appears in the 1975 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding a new paragraph (g) to read as follows:

"(1) Any person who, by reason of his fraud, has received any sum as benefits under this Chapter to which he was not entitled shall be liable to repay such sum to the Commission for and on behalf of the trust fund, or, in the discretion of the Commission, to have such sum deducted from future benefits payable to him under this Chapter, provided a finding of the existence of such fraud has been made by a decision pursuant to this Chapter within two years from the commission of such fraud.

(2) If any person, other than by reason of his fraud, has received any sum as benefits under this Chapter to which he has been found not entitled, he shall be liable to repay such sum to the Commission for and on behalf of the trust fund or, in the discretion of the Commission, shall have such sum deducted from any future benefits payable to him under this Chapter. No such recovery or recoupment of such sum may be effected after 10 years from the last day of the year in which the overpayment occurred."

Sec. 56. G.S. 96-19, as it appears in the 1975 Replacement Volume 2C of the North Carolina General Statutes, is amended as follows:

(a) G.S. 96-19 is amended by designating the present section as subsection (a) and adding a new subsection (b) to read as follows:

"(b) The Employment Security Commission may, upon receiving notification from the U. S. Department of Labor that any provision of this Chapter is out of conformity with the requirements of the federal law or of the U. S. Department of Labor, suspend the enforcement of the contested section or provision until the North Carolina Legislature next has an opportunity to make changes in the North Carolina law. The Employment Security Commission shall, in order to implement the above suspension: (1) notify the Governor's office and provide that office with a copy of the determination or notification of the U. S. Department of Labor; (2) advise the Governor's office as to whether the contested portion or provision of the law would, if not enforced, so seriously hamper the operations of the agency as to make it advisable that a special session of the legislature be called; (3) take all reasonable steps available to obtain a reprieval from the implementation of any federal conformity failure sanctions until the State legislature has been afforded an opportunity to consider the existing conflict."

Sec. 57. This act shall become effective on January 1, 1978, except that Section 9, Section 41, subsections (f) and (g) of Section 52, and subsections (e), (f), (g), and (h) of Section 54 of this act shall become effective upon ratification.

Sec. 58. If U. S. Public Law 94-566 or the federal acts it amends should be adjudged unconstitutional or invalid in its or their application or stayed *pendente lite* as to State or local employees by a court of competent jurisdiction, then the coverage of those employees under this act is automatically stayed or repealed to the extent of the adjudged inapplicability. The repeal shall be effective from the date of final disposition upon appeal or from the date of expiration of the right of appeal and shall apply to relevant matters pending at that time. If Public Law 94-566 or those provisions thereof relating to coverage of State and local employees should at any time be repealed by the U. S. Congress, then the provisions of this act relating to coverage of State and local employees shall be automatically repealed.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

S. B. 909

CHAPTER 728

AN ACT TO AMEND CHAPTER 606 OF THE 1977 SESSION LAWS TO EXPRESSLY AUTHORIZE THE ABC BOARD OF THE TOWN OF BREVARD TO ENTER INTO A CONTRACT WITH A LOCAL LAW ENFORCEMENT AGENCY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 606 of the 1977 Session Laws is hereby amended at the end thereof by adding the following:

"and to the Town of Brevard".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 325 CHAPTER 729

AN ACT TO AMEND G.S. 14-162 TO DELETE ANY REFERENCE TO REMOVAL OF PERSONAL PROPERTY FROM ANY BOAT OR LANDING AND TO INCREASE THE PENALTY FOR THE TRESPASS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-162 as the same appears in Volume 1B of the General Statutes is hereby rewritten to read as follows:

"§ 14-162. *Removing boats.*—If any person shall loose, unmoor, or turn adrift from any landing or other place wherever the same shall be, any boat, canoe, or other marine vessel, or if any person shall direct the same to be done without the consent of the owner, or the person having the lawful custody or possession of such vessel, he shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding five hundred dollars ($500.00), imprisonment for not more than six months or both. The owner may also have his action for such injury. The penalties aforesaid shall not extend to any person who shall press any such property by public authority."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1121 CHAPTER 730

AN ACT TO AMEND CHAPTER 133 OF THE GENERAL STATUTES ENTITLED PUBLIC WORKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 133-1 is hereby rewritten to read as follows:

"§ 133-1. *Employment of architects, etc., on public works when interested in use of materials prohibited.*—It shall be unlawful for any architect, engineer, or other individual, firm, or corporation providing design services for any city, county or State work supported wholly or in part with public funds, knowingly to specify any building materials, equipment or other items which are manufactured, sold or distributed by any firm or corporation in which such designer or specifier has a financial interest by reason of being a partner, officer, employee, agent or substantial stockholder."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1133 CHAPTER 731

AN ACT TO PERMIT TURNS THROUGH MEDIANS BY STATE HIGHWAY PATROLMEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-140.3 is hereby amended by adding a new subdivision to be designated "(7)" and to read as follows:

"(7) Notwithstanding any other subdivision of this section, a member of the State Highway Patrol may cross the median of a divided highway when he has reasonable grounds to believe that a felony is being or has been committed, has personal knowledge that a vehicle is being operated at a speed or in a manner

which is likely to endanger persons or property, or the patrol member has reasonable grounds to believe that his presence is immediately required at a location which would necessitate his crossing a median of a divided highway for this purpose."

Sec. 2. G.S. 136-89.58 is hereby amended by adding a new subdivision to be designated "(7)" and to read as follows:

"(7) Notwithstanding any other subdivision of this section, a member of the State Highway Patrol may cross the median of a divided highway when he has reasonable grounds to believe that a felony is being or has been committed, has personal knowledge that a vehicle is being operated at a speed or in a manner which is likely to endanger persons or property, or the patrol member has reasonable grounds to believe that his presence is immediately required at a location which would necessitate his crossing a median of a divided highway for this purpose."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1183 CHAPTER 732

AN ACT TO PROVIDE FOR SPECIAL TREATMENT OF ALL YOUTHFUL OFFENDERS AND ESTABLISH SPECIAL PAROLE CONSIDERATION FOR COMMITTED YOUTHFUL OFFENDERS.

The General Assembly of North Carolina enacts:

Section 1. Article 3A of Chapter 148 as it appears in Volume 3C of the General Statutes of North Carolina and in the 1975 Cumulative Supplement thereto is hereby repealed.

Sec. 2. Chapter 148 is hereby amended by adding a new Article 3B to read as follows:

"ARTICLE 3B.

"Facilities and Programs for Youthful Offenders.

"§ 148-49.10. *Purposes of Article.*—The purposes of this Article are to improve the chances of correction, rehabilitation and successful return to the community of youthful offenders sentenced to imprisonment by preventing, as far as practicable, their association during their terms of imprisonment with older and more experienced criminals, and by closer coordination of the activities of sentencing, training in custody, parole, and final discharge. It is the intent of this Article to provide the courts with an additional sentencing possibility to be used in the court's discretion for correctional punishment and treatment in cases, where in the opinion of the court, a youthful offender requires a period of imprisonment, but no longer than necessary for the Parole Commission to determine that the offender is suitable for a return to freedom and is ready for a period of supervised freedom as a step toward unconditional discharge and restoration of the rights of citizenship.

"§ 148-49.11. *Definitions.*—As used in this Article, a 'youthful offender' is a person under 21 years of age in the custody of the Secretary of Correction. A 'committed youthful offender' is a youthful offender who shall have the benefit of early release under the provisions of G.S. 148-49.15. All rights accrued by persons prior to the effective date of this statute shall not be affected.

"§ 148-49.12. *Treatment of youthful offenders.*—(a) To the extent practicable in light of the needs of the youthful offenders and of the needs and resources of the prison system, the Secretary of Correction shall house youthful offenders in facilities separate from prisoners over 21 years of age. In any case where the program needs of a youthful offender or the resources of the Department of Correction prohibit such separate housing, the youthful offender may be assigned to any prison facility pursuant to G.S. 148-4 and G.S. 148-36 as the Secretary of Correction shall deem appropriate. Facilities designated for the housing of youthful offenders shall be, to the extent feasible, adapted to the needs and treatment of youthful offenders. The secretary shall endeavor to provide personnel specially qualified by training, experience, and personality for treatment of youthful offenders.

(b) The Department of Human Resources is authorized to establish and construct on any property of the State under its supervision and control modern facilities where youthful offenders committed to the custody of the Secretary of Correction may be sent for treatment, training, or work under rules and regulations jointly adopted by the Department of Human Resources and the State Department of Correction. The plans, specifications and construction of such facilities shall meet the requirements of the Secretary of Correction. The cost of the maintenance of youthful offenders assigned to such facilities by the Secretary of Correction and employed in work for the benefit of the Department of Human Resources shall be borne by the Department of Human Resources. The youthful offenders assigned to such facilities shall be under the care and supervision of agents and employees of the Department of Correction or of agents and employees of the Department of Human Resources as may be agreed upon by the two State agencies.

(c) Youthful offenders may be required to participate in vocational, educational and correctional training and activities. Appropriate use shall be made of other methods of treatment, including medical and psychiatric. The Secretary of Correction may extend the limits of the place of confinement of a youthful offender when there is reasonable cause to believe that he will honor his trust, by authorizing him, under prescribed conditions, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time for any purpose consistent with the public interest. Willful failure to remain within the extended limits of his confinement, or to return within the time prescribed to the place of confinement designated by the Secretary of Correction, shall be deemed an escape from the custody of the Secretary as provided in G.S. 148-45.

(d) The Secretary of Correction may contract with any appropriate public or private agency not under his control for treatment and training services to youthful offenders when this is the most economical or effective way to provide needed services.

"§ 148-49.13. *Classification studies.*—Every youthful offender shall first be sent to a diagnostic and classification center for a complete study, including a mental and physical examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school and family life, any previous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency and criminal activities. All agencies of State and local government in North Carolina shall cooperate with the State Department of Correction in supplying or verifying information helpful for

diagnosis, classification, and program planning for youthful offenders. A report of the findings and recommendations of the diagnostic and classification center shall be sent to the Secretary of Correction and shall be made available to the Parole Commission, and to the Department of Human Resources if needed.

"§ 148-49.14. *Sentencing committed youthful offenders.*—As an alternative to a sentence of imprisonment as is otherwise provided by law, when a person under 21 years of age is convicted of an offense punishable by imprisonment and the court does not suspend the imposition or execution of sentence and place him on probation, the court may sentence such person to the custody of the Secretary of Correction for treatment and supervision as a committed youthful offender. At the time of commitment the court shall fix a maximum term not to exceed the limit otherwise prescribed by law for the offense of which the person is convicted or 20 years, whichever is less. When the maximum permitted penalty for the offense is imprisonment for one year or longer, the maximum term imposed shall not be for less than one year. If the court shall find that a person under 21 years of age should not obtain the benefit of release under G.S. 148-49.15, it shall make such 'no benefit' finding on the record. Whenever the court shall suspend the imposition or execution of sentence and place a person on probation, the court shall not order commitment as a committed youthful offender; however, if probation be subsequently revoked and the active sentence of imprisonment executed, the court may at that time commit the person, if he is still under 21 years of age, to the custody of the Secretary of Correction as a committed youthful offender.

"§ 148-49.15. *Parole of committed youthful offenders.*—(a) The Parole Commission may at any time after reasonable notice to the Secretary of Correction parole under supervision a committed youthful offender pursuant to the provisions of Article 4 of this Chapter. When, in the judgment of the Secretary of Correction, a committed youthful offender is ready for parole under supervision, the Secretary may also recommend such action to the Parole Commission. It shall not be necessary for a committed youthful offender to have served one quarter of his sentence before becoming eligible for parole.

(b) When the Parole Commission paroles any committed youthful offender, the time that the committed youthful offender spends at liberty on parole shall be limited and shall be credited toward his active sentence in the same manner as would have occurred had such person been paroled pursuant to Article 4 of this Chapter.

(c) The Parole Commission, after notice to the Secretary of Correction, may release a committed youthful offender on parole within the last 90 days of his maximum term of commitment.

(d) The Parole Commission may revoke or modify any of its orders respecting a committed youthful offender except an order of unconditional discharge. Upon the unconditional discharge by the Parole Commission of a committed youthful offender before the expiration of the maximum sentence imposed upon him, all rights of citizenship which he forfeited on conviction shall be automatically restored and the Parole Commission shall issue to the committed youthful offender a certificate to that effect.

"§ 148-49.16. *Supervision of paroled youthful offenders and revocation of such parole.*—(a) Paroled youthful offenders shall be under the supervision of agents and employees of the Department of Correction. The Department of Correction is authorized to encourage the formation of voluntary organizations

composed of members who will serve without compensation as voluntary supervisory agents and sponsors. The powers and duties of voluntary supervisory agents and sponsors shall be limited and defined by rules and regulations adopted by the Parole Commission.

(b) If at any time before unconditional discharge of a youthful offender the Parole Commission is of the opinion that for proper reason parole should be revoked, revocation shall proceed under the provisions of Article 4 of this Chapter. After revocation of parole, the Parole Commission may thereafter reinstate parole at such time as in the commission's discretion the youthful offender is ready for reinstatement. Notice to the Secretary of Correction of intent to reinstate parole shall not be required."

Sec. 3. G.S. 148-45(a)(4) as it appears in the 1975 Cumulative Supplement to Volume 3 of the General Statutes of North Carolina is amended by striking out in the third line thereof "or 148-49.3".

Sec. 4. G.S. 148-45(b)(4) as it appears in the 1975 Cumulative Supplement to Volume 3 of the General Statutes of North Carolina is amended by striking out in the third line thereof "or 148-49.3".

Sec. 5. The second sentence of G.S. 143B-266(b) is hereby rewritten to read as follows: "Specifically, such releasing authority includes work release (G.S. 148-33.1), indeterminate-sentence release (G.S. 148-42), and release of youthful offenders (G.S. 148-49.8), provided the individual considered for work release or indeterminate-sentence release shall have been recommended for release by the Secretary of Correction or his designee."

Sec. 6. All commitments to the Department of Correction under G.S. 148-49.3 shall be treated as commitments under G.S. 148-12(b).

Sec. 7. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1213 CHAPTER 733

AN ACT TO REQUIRE PARTICIPATION OF THE OFFICE OF THE ATTORNEY GENERAL IN THE AWARD OF STATE CONTRACTUAL SERVICES CONTRACTS IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (3) of G.S. 143-49 is amended by adding at the end thereof a new paragraph to read as follows:

"When the award of any contract for contractual services exceeding a cost of one hundred thousand dollars ($100,000) requires negotiation with prospective contractors, the secretary shall request and the Attorney General shall assign a representative of the Office of the Attorney General to assist in negotiation for the award of the contract. It shall be the duty of such representative to assist and advise in obtaining the most favorable contract for the State, to evaluate all proposals available from prospective contractors for that purpose, to interpret proposed contract terms and to advise the secretary or his representatives of the liabilities of the State and validity of the contract to be awarded. All contracts and drafts of such contracts shall be prepared by the Office of the Attorney General and copies thereof shall be retained by such office for a period of three years following the termination of such contracts. The term

'contractual services' as used in this subsection shall mean work performed by an independent contractor requiring specialized knowledge, experience, expertise or similar capabilities wherein the service rendered does not consist primarily of acquisition by this State of equipment or materials and the rental of equipment, materials and supplies. The term 'negotiation' as used herein shall not be deemed to refer to contracts entered into or to be entered into as a result of a competitive bidding process."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1240 CHAPTER 734

AN ACT TO REENACT G.S. 10-12, G.S. 10-13 AND G.S. 31-31.1 TO VALIDATE CERTAIN ACTS PERFORMED BY NOTARIES PUBLIC SINCE 1973.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10-12, G.S. 10-13 and G.S. 31-31.1, as the same appear in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, are hereby reenacted in their entirety.

Sec. 2. Nothing herein contained shall affect pending litigation.

Sec. 3. This act shall become effective upon ratification and shall apply only to those acts performed on or before May 15, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1277 CHAPTER 735

AN ACT TO AMEND ARTICLE 22 OF CHAPTER 14 OF THE GENERAL STATUTES BY ADDING G.S. 14-159.1 MAKING IT UNLAWFUL TO ALTER, TAMPER WITH OR BYPASS ELECTRIC, GAS OR WATER METERS; PROVIDING A PRESUMPTION OF INTENT AND EVIDENCE THEREOF; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING LIABILITY FOR DAMAGES IN A CIVIL ACTION; PROVIDING AN EXEMPTION; AND PROVIDING AN EFFECTIVE DATE.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 14 of the General Statutes of North Carolina is hereby amended by adding the following new section:

"§ 14-159.1. *Interfering with electric, gas or water meters; prima facie evidence of intent to alter, tamper with or bypass electric, gas or water meters; civil liability.*—(a) It shall be unlawful for any unauthorized person to alter, tamper with or bypass a meter which has been installed for the purpose of measuring the use of electricity, gas or water or knowingly to use electricity, gas or water passing through any such tampered meter or use electricity, gas or water bypassing a meter provided by an electric, gas or water supplier for the purpose of measuring and registering the quantity of electricity, gas or water consumed.

(b) Any meter or service entrance facility found to have been altered, tampered with, or bypassed in a manner that would cause such meter to

inaccurately measure and register the electricity, gas or water consumed or which would cause the electricity, gas or water to be diverted from the recording apparatus of the meter shall be *prima facie* evidence of intent to violate and of the violation of this section by the person in whose name such meter is installed or the person or persons so using or receiving the benefits of such unmetered, unregistered or diverted electricity, gas or water.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500.00) or imprisoned not longer than two years, or both fined and imprisoned, in the discretion of the court.

(d) Whoever is found in a civil action to have violated any provision hereof shall be liable to the electric, gas or water supplier in triple the amount of losses and damages sustained or five hundred dollars ($500.00), whichever is greater.

(e) Nothing in this act shall be construed to apply to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1379 CHAPTER 736

AN ACT TO AMEND G.S. 7A-39.3(a), G.S. 7A-39.6, G.S. 7A-52(a), G.S. 7A-53, AND G.S. 7A-4.20, RELATING TO THE RECALL TO ACTIVE SERVICE OF RETIRED JUSTICES AND JUDGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-39.3(a) is hereby rewritten to read as follows:

"(a) Justices of the Supreme Court and judges of the Court of Appeals who have not reached the mandatory retirement age specified in G.S. 7A-4.20(a) but have retired (1) under the provisions of either G.S. 7A-39.2(a) or G.S. 7A-39.2(b); or (2) under the Uniform Judicial Retirement Act after having completed 15 years of creditable service and after having attained the age of 65, are hereby constituted emergency justices and emergency judges of the court from which they retired, and shall be subject to temporary recall to active service on that court in the place of any justice of the Supreme Court or judge of the Court of Appeals, respectively, who is temporarily incapacitated to the extent that he cannot perform efficiently and promptly all the duties of his office."

Sec. 2. G.S. 7A-39.6 is rewritten to read as follows:

"Any justice of the Supreme Court or judge of the Court of Appeals who is eligible and desires to retire and is qualified to become an emergency justice or judge shall notify the Governor in writing of his intention to do so, including in the notice the facts which entitle him to retire. Upon receipt of such notice, the Governor shall issue to any such judge or justice qualified to receive it a commission as an emergency justice or judge. The commission shall be effective upon the date of his retirement and shall terminate when he reaches the maximum age for judicial service specified in G.S. 7A-4.20. Any commission for life heretofore issued to an emergency judge who has reached the maximum age for judicial service as specified in G.S. 7A-4.20, which became effective January 1, 1973, is hereby declared invalid."

Sec. 3. G.S. 7A-52(a) is hereby rewritten to read as follows:

"(a) Judges of the superior court who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but have retired under the provisions of either G.S. 7A-51(a) or G.S. 7A-51(b); or under the Uniform Judicial Retirement Act after having completed 15 years of creditable service and after having attained the age of 65, are hereby constituted emergency judges of the superior court. The Chief Justice of the Supreme Court may order any emergency judge, who, in his opinion, is competent to perform the duties of a superior court judge, to hold regular or special sessions of superior court, as needed. Orders of assignment shall be in writing and entered upon the minutes of the superior court."

Sec. 4. G.S. 7A-53 is rewritten to read as follows:

"Any judge of the superior court who is eligible and desires to retire and is qualified to become an emergency judge shall notify the Governor in writing of his intention to do so, including in the notice the facts which entitle him to retire. Upon receipt of the notice, the Governor shall issue to any such judge qualified to receive it a commission as an emergency judge. The commission shall be effective upon the date of his retirement and shall terminate when he reaches the maximum age for judicial service specified in G.S. 7A-4.20. Any commission for life heretofore issued to an emergency judge who has reached the maximum age for judicial service as specified in G.S. 7A-4.20, which became effective January 1, 1973, is hereby revoked."

Sec. 5. G.S. 7A-4.20(b) is rewritten to read as follows:

"(b) Subsection (a) of this section is equally applicable to emergency justices and judges who have been commissioned under G.S. 7A-39.3(a) and G.S. 7A-52(a)."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1389 CHAPTER 737

AN ACT TO CONTROL NOISE POLLUTION FROM SPEEDBOATS WITH ENGINES CAPABLE OF PRODUCING IN EXCESS OF 4000 RPM'S.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 75A of the General Statutes is hereby amended by adding a new statute to read as follows:

"§ 75A-9.1. Every internal combustion engine with an open-air exhaust which is used on any motorboat and which has a capacity of operating at more than 4000 revolutions per minute shall have effective muffling equipment installed on each exhaust manifold stack except for motorboats competing in a regatta or boat race approved as provided in G.S. 75A-14, and for such motorboats while on trial runs, during a period not to exceed 48 hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed 48 hours immediately following such regatta or race. This act shall not apply to licensed commercial fishing boats."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1400 **CHAPTER 738**

AN ACT TO AMEND ARTICLE 5A OF CHAPTER 122 TO PROVIDE FOR INVOLUNTARY COMMITMENT OF MENTALLY ILL PERSONS TO THE PSYCHIATRIC SERVICE OF THE NORTH CAROLINA MEMORIAL HOSPITAL, AND TO REPEAL ARTICLE 7 OF CHAPTER 122.

Whereas, the language in Article 7 of Chapter 122 pertaining to North Carolina Memorial Hospital is inconsistent with the present involuntary commitment statutes; and

Whereas, the other provisions on judicial hospitalization formerly contained in Article 7 were repealed and replaced by Article 5A of Chapter 122; and

Whereas, there is no longer any necessity for the provisions remaining in Article 7; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 5A of Chapter 122 is hereby amended by adding a new section thereto to read as follows:

"§ 122-58.19. *Commitment of persons to the psychiatric service of North Carolina Memorial Hospital.*—Except as otherwise specifically provided in this section, references in this Article to regional mental health facilities shall be deemed to include the psychiatric service of the North Carolina Memorial Hospital at Chapel Hill. Such facility may be used for temporary detention of the respondent pending a district court hearing and for commitment of the respondent subsequent to such a hearing. No person shall be held at or committed to the psychiatric service of the North Carolina Memorial Hospital without the prior approval of the director of the inpatient service or his designee.

Special counsel for respondents as described in G.S. 122-58.12 shall not be appointed for the North Carolina Memorial Hospital. Legal counsel for the respondent at all hearings shall be provided in accordance with G.S. 122-58.7(c). Rehearings for patients committed to the psychiatric service of the North Carolina Memorial Hospital shall be held at the hospital or at the Orange County Courthouse, and counsel for respondents at rehearings shall be assigned from among the members of the bar of the same county."

Sec. 2. Article 7 of Chapter 122 of the General Statutes is hereby repealed.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 1401 **CHAPTER 739**

AN ACT TO CLARIFY THE IDENTITY OF THE LICENSING AUTHORITY FOR MENTAL HEALTH FACILITIES.

Whereas, there is some discrepancy between G.S. 122-35.33, G.S. 122-58.4, G.S. 122-58.8, and Article 10, Chapter 122 as to the identity of the licensing agency for community mental health facilities and public or private mental health facilities; and

Whereas, the Division of Mental Health Services is a unit within the Department of Human Resources; and

Whereas, it is desired to have uniformity in licensing of facilities of this nature by authorizing the Department of Human Resources, or such unit as it may administratively specify, to issue these types of licenses; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.4(c), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting the words "Division of Mental Health Services of the" where they appear in line 9 of such subsection.

Sec. 2. G.S. 122-58.8(b), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting the words "Division of Mental Health Services" where they appear in line 5 of such subsection and substituting the words "Department of Human Resources" therefor.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

S. B. 598 **CHAPTER 740**

AN ACT TO GRANT EXECUTOR OR TRUSTEE DISCRETION TO MAKE DISTRIBUTIONS IN CASH OR KIND, WITHOUT REGARD TO FEDERAL INCOME TAX BASIS.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 28A of the General Statutes is amended by adding at the end thereof a new section, G.S. 28A-22-8, to read as follows:

"§ 28A-22-8. *Executor or trustee; discretion over distributions.*—Unless otherwise restricted by the terms of the will or trust, an executor or trustee shall have absolute discretion to make distributions in cash or in specific property, real or personal, or an undivided interest therein or partly in cash or partly in such property, and to do so without regard to the income tax basis for federal tax purposes of specific property allocated to any beneficiary."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

S. B. 757 **CHAPTER 741**

AN ACT TO AMEND CERTAIN PROVISIONS OF THE LAW RELATING TO THE BATTLESHIP COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-366, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is amended: (a) by inserting before the words and punctuation ", and to allocate funds" the following words and punctuation: "; to acquire property, both real and personal, with the approval of the Governor and the Council of State, and to accept donations of property, both real and personal, from any source; to establish, supervise, manage and maintain in New Hanover County with the approval and assistance of the Department of Cultural Resources exhibits, dramas, cultural activities, museums, and records pertaining to the marine and naval history of the State of North Carolina and the United States of America; to identify, preserve and protect properties having historical, marine and naval significance to New Hanover County, the State, its communities and counties and the nation; to establish and provide for a proper charge for admission to all properties maintained and operated by the commission in New Hanover County; to otherwise provide in carrying out its duties for the establishment of appropriate activities to encourage interest in the marine and naval history of North Carolina; to perpetuate the memory of North Carolinians who gave their lives in the course of World War II and in the events in which the battleship was a participant,"; and (b) by inserting after the word "the" in the first line the word "further".

Sec. 2. G.S. 143-367, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is amended by inserting after the words "reserve fund" in the last sentence the words "in an amount to be determined by the Secretary of Cultural Resources".

Sec. 3. G.S. 143B-73, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is hereby amended (a) by striking the word "Article" in the first sentence and inserting the word "Part"; (b) by striking all words appearing after the word "exhibit" in subsection (1) and inserting in lieu thereof the following: "commemorating the heroic participation of the men and women of North Carolina in the prosecution and victory of the Second World War and for the faithful performance and fulfillment of its duties and obligations."; (c) by inserting a period after the word "Chapter" in subsection (3) and deleting the remainder of subsection (3).

Sec. 4. G.S. 143B-74, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is hereby amended (a) by rewriting the first sentence thereof to read as follows: "The U.S.S. North Carolina Battleship Commission of the Department of Cultural Resources shall consist of 18 members including the Secretary of Cultural Resources and the Secretary of Commerce who shall serve as voting ex officio members."; and (b) by inserting at the end thereof the following words to read as follows: "The Governor shall designate from among the members of the commission a chairman, vice-chairman and treasurer. The Secretary of Cultural Resources or his designee shall serve as secretary of the commission. The commission shall meet at least twice annually upon the call of the chairman, the Secretary of Cultural Resources, or any seven members of the commission."

Sec. 5. G.S. 143-360, G.S. 143-361 and G.S. 143-362 are hereby repealed.

Sec. 6. G.S. 143-368, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended on line 1 by deleting the word "Commission" and inserting in lieu thereof the words "Department of Cultural Resources"; and is further amended by deleting the last sentence thereof.

Sec. 7. G.S. 143-369, as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is hereby amended on line 2 by deleting the words "or for any employee thereof"; and is further amended on line 5 by deleting the words "or employee thereof"; and is further amended on line 7 by deleting the words "or employee".

Sec. 8. The revisor of statutes is directed to recodify (1) G.S. 143-366 as G.S. 143B-73.1, (2) G.S. 143-367 as G.S. 143B-74.1, (3) G.S. 143-368 as G.S. 143B-74.2, and (4) G.S. 143-369 as G.S. 143B-74.3.

Sec. 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions of this act or applications which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 10. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. B. 714 CHAPTER 742

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF SPRING LAKE AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Spring Lake is hereby revised and consolidated to read as follows:

"The Charter of the Town of Spring Lake.

"ARTICLE I.

"Incorporation, Corporate Powers and Boundaries.

"Section 1.1. *Incorporation.* The Town of Spring Lake, North Carolina in the County of Cumberland, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Spring Lake', hereinafter at times referred to as the 'town'.

"Sec. 1.2. *Powers.* The Town of Spring Lake shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be conferred, either expressly or by implication, upon the Town of Spring Lake specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. *Corporate limits.* The corporate limits of the Town of Spring Lake shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the town, and as the same may be altered from time to time in accordance with law. An official map of the town, showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the town shall be made.

"ARTICLE II.

"Mayor and Board.

"Sec. 2.1. *Governing body.* The mayor and board of aldermen, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and board may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

"Sec. 2.2. *Board of aldermen; composition; terms of office.* The board of aldermen shall be composed of five members, each of whom shall be elected for terms of two years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. *Mayor; term of office; duties.* The mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of two years, or until his or her successor is elected and qualified. The mayor shall be the official head of the town government and shall preside at all meetings of the board. The mayor shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the board. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred by the General Statutes of North Carolina, by this Charter, and by the ordinances of the town.

"Sec. 2.4. *Mayor pro tempore.* In accordance with applicable General Statutes, the board shall appoint one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

"Sec. 2.5. *Meetings of the board.* In accordance with applicable General Statutes, the board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clause of all town ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Spring Lake'.

"Sec. 2.7. *Voting requirements; quorum.* Official action of the board shall be, except as provided otherwise by law, by majority vote, provided that a quorum, consisting of a majority of the actual membership of the board, is present. Vacant seats are to be subtracted from the normal board membership to determine the actual membership.

"Sec. 2.8. *Qualifications for office; vacancies; compensation.* The compensation of board members, the filling of vacancies on the board, and the qualifications of board members shall be in accordance with applicable provisions of the General Statutes.

"Sec. 2.9. *Continuation in office of elected officials.* Each official elected under authority of the Charter heretofore in effect, shall continue to hold that elected office as if that official had been elected under the provisions of this Charter, and shall continue in office until a successor qualifies without the holding of a special election.

"Sec. 2.10. *Continuation in office of appointed officials.* Each official appointed under authority of the Charter heretofore in effect, shall continue to hold that appointed office or position until removed by authority given under terms of this Charter.

"ARTICLE III.

"Elections.

"Sec. 3.1. *Regular municipal elections; conduct and method of election.* Regular municipal elections shall be held in the town every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and members of the board shall be elected according to the nonpartisan plurality method of election.

"Sec. 3.2. *Election of the mayor.* At the next regular municipal election and every two years thereafter, there shall be elected a mayor to serve a term of two years. The mayor shall be elected by the voters of the town voting at large.

"Sec. 3.3. *Election of the board members.* At the next regular municipal election and every two years thereafter, there shall be elected five board members to fill the seats of those board members whose terms are then expiring.

"ARTICLE IV.

"Organization and Administration.

"Sec. 4.1. *Form of government.* The town shall operate under the mayor-council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. *Town attorney.* The board shall appoint a town attorney who shall be licensed to engage in the practice of law in the State of North Carolina. When requested by the board, it shall be the duty of the town attorney to defend suits against the town; to advise the mayor, board, and other town officials with respect to the affairs of the town; to draft all legal documents relating to the affairs of the town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the town may be concerned; to attend meetings of the board and to perform other duties required by law or as the board may direct.

"Sec. 4.3. *Town clerk.* The board shall appoint a town clerk to keep a journal of the proceedings of the board, to maintain in a safe place all records and documents pertaining to the affairs of the town, and to perform such other duties as may be required by law or as the board may direct.

"Sec. 4.4. *Town finance officer.* The board shall appoint a town finance officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.5. *Town tax collector.* The board shall appoint a town tax collector to collect all taxes, licenses, fees and other revenues accruing to the town, subject to the General Statutes, the provisions of this Charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.6. *Consolidation of functions.* The board may consolidate any two or more positions of town supervisor, town clerk, town tax collector, and town finance officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.7. *Other administrative officers and employees.* Consistent with applicable State laws, the board may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"ARTICLE V.

"Special Provisions.

"Sec. 5.1. *Assessments for street and sidewalk improvements; petition unnecessary.*

A. In addition to any authority which is now or may hereafter be granted by general law to the town for making street improvements, the board is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

B. The board may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the board as a fact:

(1) that the street improvement project does not exceed 1,200 linear feet, and

(2) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(3) that it is in the public interest to connect two streets, or portions of a street already improved, or

(4) that it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this section.

C. For the purposes of this section, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

D. In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the board is hereby authorized, without the necessity of obtaining a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this section, the board shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 5.2. *Jurisdiction of police officers.* When any crime is committed in the town in the presence of any police officer of the town, and such person flees the town, said police officer is hereby granted full authority to pursue immediately such person beyond the corporate limits of the town to any point within three miles of the corporate limits, and to apprehend and arrest such person within such distance."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Spring Lake and to consolidate herein certain acts concerning the property, affairs and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) any acts concerning the property, affairs, or government of public schools in the Town of Spring Lake;

(b) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Ch. 670, S. L. 1951
Ch. 1223, S. L. 1951
Ch. 585, S. L. 1955
Ch. 744, S. L. 1953

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. All existing ordinances and resolutions of the Town of Spring Lake and all existing rules or regulations of departments or agencies of the Town of Spring Lake not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified, or amended.

Sec. 8. No action or proceeding of any nature whether civil or criminal, judicial or administrative, or otherwise pending at the effective date of this act

by or against the Town of Spring Lake or any of its departments or agencies shall be abated or otherwise affected by adoption of this act.

Sec. 9. If any of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 739 CHAPTER 743

AN ACT TO AMEND G.S. 97-83 OF THE WORKMEN'S COMPENSATION CONCERNING INDUSTRIAL COMMISSION HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-83 is hereby amended by adding at the end of the first paragraph of such section the following:

"The county commissioners of each of the counties shall provide a suitable place for the Industrial Commission to conduct hearings in the county seat of such county so long as the provision of such a suitable place does not interfere with the normal use of county facilities."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Labor to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 782 CHAPTER 744

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF CONCORD AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Concord is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF CONCORD.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. Incorporation. The City of Concord, North Carolina in the County of Cabarrus, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Concord', hereinafter at times referred to as the 'city'.

"Sec. 1.2. Powers. The City of Concord shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now or hereafter may be conferred, either expressly or by implication, upon the City of Concord specifically, or upon municipal corporations generally, by this charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate limits. The corporate limits of the City of Concord shall be those existing at the time of ratification of this charter, as the same are set forth on an official map of the city, and as the same may be altered from time to time in accordance with law. The official map of the city showing its current corporate boundaries, entitled 'Map of the City of Concord, North Carolina', shall be maintained in the office of the city clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the city shall be made.

"ARTICLE II.

"MAYOR AND BOARD OF ALDERMEN.

"Sec. 2.1. Governing body. The mayor and board of aldermen, elected and constituted as herein set forth, shall be the governing body of the city. On behalf of the city, and in conformity with applicable laws, the mayor and board may provide for the exercise of all municipal powers, and shall be charged with the general government of the city.

"Sec. 2.2. Mayor; term of office; duties. The mayor shall be elected by and from the qualified voters of the city in the manner provided by Article III of this charter to serve for a term of four years, or until his successor is elected and qualified. The mayor shall be the official head of the city government and shall preside at all meetings of the board. He shall have the right to vote only when there is an equal number of votes in the affirmative and the negative on any motion before the board. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this charter, and by the ordinances of the city.

"Sec. 2.3. Board of aldermen; composition; terms of office. The board of aldermen shall be composed of seven members, each of whom shall be elected by and from the qualified voters of the city for terms of four years each in the manner provided by Article III of this charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor pro tempore. In accordance with applicable State laws, the board of aldermen shall elect one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore shall serve in such capacity at the pleasure of the board.

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. Regular municipal elections; conduct and method of election. Beginning in 1977, regular municipal elections shall be held in the city every four years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and board of aldermen shall be elected according to the partisan primary and election method of election, as set out in G.S. 163-291.

"Sec. 3.2. Election of the mayor and board of aldermen. (a) The mayor shall be nominated and elected by all the voters of the city voting at large.

(b) One member of the board of aldermen shall be nominated and elected by all the voters of the city voting at large. Six members of the board of aldermen shall reside in and represent the wards of the city, but shall be nominated and elected by all the voters of the city voting at large.

"Sec. 3.3. Wards; ward boundaries. (a) The city shall continue to be divided into six single-member wards, with the ward boundaries being drawn so that each ward includes, as nearly as possible, the same number of persons residing therein.

(b) The ward boundaries shall be those existing at the time of the ratification of this charter, as the same are set forth on an official map of the city. An official map, showing the current ward boundaries, shall be maintained permanently in the office of the city clerk, and shall be available for public inspection.

(c) In accordance with State law, the board of aldermen shall be authorized to revise from time to time the ward boundaries of the city. Upon alteration of the ward boundaries pursuant to law, the board shall cause the appropriate changes to be made in the official map.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. Form of government. Except as otherwise provided in this Article, the city shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. City manager. The board of aldermen shall appoint a city manager who shall be the chief administrator of city government, and who shall be responsible to the board for the proper administration of the affairs of the city. The manager shall be appointed on the basis of merit only, and he shall serve at the pleasure of the board. Although he need not be a resident at the time of his appointment, the manager shall become a resident of the city after his appointment. In exercising his duties as chief administrator, the manager shall have the following powers and duties:

(a) He shall appoint, suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the city attorney, the city treasurer and the director of utilities, and employees of the Board of Light and Water Commissioners, in accordance with such general personnel rules, regulations, policies, or ordinances as the board may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the city, except the Board of Light and Water Commissioners, subject to the general direction and control of the board, except as otherwise provided by law.

(c) He shall attend all meetings of the board and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the city charter and the ordinances, resolutions and regulations of the board are faithfully executed within the city.

(e) He shall prepare and submit the annual budget and capital program to the city.

(f) He shall annually submit to the board and make available to the public a complete report on the finances and administrative activities of the city as of the end of the fiscal year.

(g) He shall make any other reports that the board may require concerning the operations of the city departments, offices, and agencies subject to his direction and control.

(h) He shall be an ex officio member of the City Board of Light and Water Commissioners.

(i) He shall perform any other duties that may be required and authorized by the board.

"Sec. 4.3. City attorney. The board of aldermen shall appoint a city attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the city attorney to prosecute and defend suits against the city; to advise the mayor, board and other city officials with respect to the affairs of the city; to draft all legal documents relating to the affairs of the city; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the city may be concerned; to attend meetings of the board; and to perform other duties required by law or as the board may direct.

"Sec. 4.4. City tax collector. The board of aldermen shall appoint a city tax collector to collect all taxes, licenses, fees and other moneys belonging to the city, subject to the General Statutes, the provisions of this charter and the ordinances of the city. The city tax collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities.

"Sec. 4.5. City treasurer. The board of aldermen shall appoint a city treasurer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as may be required by the board.

"Sec. 4.6. Organization of city government. Consistent with applicable State laws, the board may establish other positions, departments, boards, and agencies, and generally organize the city government in order to promote the orderly and efficient administration of the affairs of the city.

"ARTICLE V.

"BOARDS AND COMMISSIONS.

"CHAPTER 1.

"Light and Water Board.

"Sec. 5.1. Board established. There shall continue to be a body known as the Board of Light and Water Commissioners for the City of Concord, which shall have and may exercise the powers and duties set forth herein and such other powers and duties as may be conferred by law.

"Sec. 5.2. Composition of board; salary. The Board of Light and Water Commissioners shall be composed of five members. Three members shall be appointed by the board of aldermen for staggered terms of three years each. The city manager shall be a member ex officio, but shall not have a vote in its proceedings. The mayor shall be chairman ex officio and shall preside at all meetings. He shall have the right to vote only when there are an equal number of votes in the affirmative and in the negative on any motion before the Board of Light and Water Commissioners. The board of aldermen shall have authority to establish the compensation of the light and water commissioners.

"Sec. 5.3. General powers; operating procedures. (a) The Board of Light and Water Commissioners shall continue to be a corporation under the same name and, as such, shall have the power to sue and be sued, to contract and be

contracted with, to hold real and personal property, and exercise and enjoy the usual privileges of a corporation.

(b) A majority of the Board of Light and Water Commissioners shall constitute a quorum for the transaction of business. All contracts, engagements and enactments of the board, within the scope and duty of its authority, shall be obligatory upon and be in law considered as if done by the City of Concord.

"Sec. 5.4. Specific powers and duties. The Board of Light and Water Commissioners is authorized and empowered to:

(1) To operate and maintain a system of electricity, sewer and waterworks within and without the City of Concord and to take and hold, for the City of Concord, all rights, franchises and property of every kind now owned by the city, or that may hereafter be purchased, for the purpose of operating and maintaining a system of waterworks, sewers, and electricity for the city.

(2) Fix and collect rates, fees and charges for the use of and for the services and facilities furnished or to be furnished in the form of electrical, sewer, and water service to be paid by the owner, tenant or occupant of each lot or parcel of land which may be served by such electrical, sewer and water facilities, and to revise such schedule of rates, fees and charges from time to time; to fix and collect charges for tapping or connecting to the water, sewer, and electrical lines; and to fix and collect a different schedule of rates, fees and charges for the use of electrical, sewer and water services and tapping services when rendered or made outside the corporate limits of the city, but the Board of Light and Water Commissioners shall in no case be compelled to furnish electrical, sewer, or water services outside the corporate limits of the city, or be liable for damages for failure to furnish the same. Such rates, fees and charges are to be uniform, just and equitable and based upon methods of computation adopted by the Board of Light and Water Commissioners.

(3) Fix the times when rates, fees and charges for electrical, sewer, and water services shall become due and payable, and in case such rates, fees and charges are not paid within 10 days after becoming due, the same may at any time thereafter be collected by suit brought in the name of the board. Upon the failure of the owner, tenant, or occupant of property for which services are furnished to pay the rates, fees, and charges when due, then the board or its agent or employees may cut off the service to such property; and when so cut off, it shall be unlawful for any person, firm or corporation other than the board or its agents or employees to turn on the services to such property.

(4) Require a deposit by an owner, tenant or occupant of the premises to which electrical, sewer, or water services are to be rendered and to fix the amount thereof, which deposit shall be applied toward the payment of any delinquent rents, fees or charges due to the board by such owner, tenant or occupant for electrical, sewer or water services.

(5) Acquire in the name of the Board of Light and Water Commissioners, either by purchase or by the exercise of the right of eminent domain in the manner provided in Chapter 40, Article 2, of the General Statutes of North Carolina entitled 'Eminent Domain', such land and rights and interests therein as it may deem necessary in connection with the construction, extension, enlargement, improvement or operation of its electrical, sewer and water systems both within and without the corporate limits of the city.

In addition thereto it may exercise for itself and in its name all power and authority provided by Article VI, Section 6.1.

(6) Enter into contracts with the government of the United States or any agency or instrumentality thereof, or with the government of the State of North Carolina or any agency or instrumentality thereof, or with any county or instrumentality thereof or with any other municipality, sanitary district, private corporation, copartnership, association or individual providing for or relating to electrical, sewer and water services.

(7) Out of the proceeds collected from the electrical, sewer, and water rates, fees, charges, and rentals, (a) pay the costs and expenses incurred in managing, operating, improving, maintaining, and extending its electrical, sewer, and water lines and systems; (b) provide for appropriate reserves for payment of principal and interest on bonds heretofore or hereafter issued by the city in connection therewith; (c) provide a reserve fund for emergencies and disasters in such amount as the Board of Light and Water Commissioners may deem advisable; (d) provide a reserve for future improvements and extensions in such amount as the Board of Light and Water Commissioners may deem advisable; (e) remit to the treasurer of the city all amounts which the Board of Light and Water Commissioners deems unnecessary to retain for the purposes herein set out.

"Sec. 5.5. Director of Utilities. The Board of Light and Water Commissioners is authorized to appoint and employ a Director of Utilities. The Director of Utilities shall direct and supervise all activities of the Board of Light and Water Commissioners, including the appointment, suspension or removal of its employees in accordance with such general personnel rules, regulations, policies or resolutions as the Board of Light and Water Commissioners, acting jointly with the board of aldermen, may adopt, and shall perform such other duties as the Board of Light and Water Commissioners may direct.

"Sec. 5.6. Sanitary inspectors. (a) The Board of Light and Water Commissioners is hereby authorized and empowered to employ one or more sanitary inspectors, whose salaries shall be fixed by the board and whose terms of office shall be at the pleasure of the board. Such inspectors shall be appointed for the purpose, and only for the purpose of patrolling the area comprising the watershed of the public water supply of the city, such watershed being located in the Counties of Cabarrus and Rowan.

(b) Each sanitary inspector so appointed shall, before entering upon the duties of his office, take and subscribe the usual oath. Such oath, with a copy of the commission of appointment, shall be filed with the clerk of the superior court of each county into which the watershed extends, and such inspector shall possess within the limits of the watershed all of the powers vested in a peace officer of the State of North Carolina for the enforcement of the several statutes, rules and regulations enacted by the State of North Carolina or promulgated by any agency thereof relating to water protection, and only for such purpose. Each sanitary inspector so appointed is authorized and empowered to enter upon any premises and into any building upon such watershed for the purpose of making the inspections required by the Public Health Laws of the State of North Carolina, and such inspector is authorized and empowered to arrest without formal warrant any person who in the presence of the inspector is engaged in the violation of any of the laws, rules and regulations enacted or promulgated with respect to water protection.

(c) Whenever the board shall no longer require the services of any inspector so appointed as aforesaid, it shall file a notice to that effect in the several offices

in which notice of such appointment was originally filed, and thereupon the power of such inspector shall cease and be determined.

"Sections 5.7 through 5.10 reserved.

"CHAPTER 2.

"Alcoholic Beverage Control Board.

"Sec. 5.11. Board established. There shall continue to be a board known as the Alcoholic Beverage Control Board of the City of Concord, which shall have and may exercise all of the powers and duties enumerated herein.

"Sec. 5.12. Composition of board. The alcoholic beverage control board shall be composed of a chairman and two other members who shall be appointed by the board of aldermen. The chairman and each member shall be well known for their character, ability and business acumen, and shall serve for staggered terms of three years each. Their successors, or any vacancy, shall be filled by appointment of the board of aldermen.

"Sec. 5.13. Powers and duties. The alcoholic beverage control board shall have all the powers and duties imposed by Chapter 18A of the General Statutes on county boards of alcoholic control, and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control the same as county boards of alcoholic control, as provided in Chapter 18A of the General Statutes; provided, no city alcoholic beverage control stores shall be located or operated within 450 feet of any school or church in the city. The alcoholic beverage control board and the operation of any city alcoholic beverage control store shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this Chapter.

"Sec. 5.14. Distribution of profits. Out of the net profits remaining after the payment of all costs and operating expenses, and after retaining a sufficient and proper working capital, the board of alcoholic beverage control shall distribute the net profits as follows: the first fifteen percent (15%) for law enforcement; of the remaining balance, twenty-five percent (25%) to Cabarrus County and seventy-five percent (75%) to the City of Concord.

"Sec. 5.15. Expenditures for law enforcement. The funds allocated for law enforcement in Section 5.14 (15%) shall be expended by the alcoholic beverage control board for law enforcement. In the expenditure of such funds, the board shall employ one or more ABC officers to be appointed by and be directly responsible to the board. The persons so appointed shall take the oath of office prescribed by law for peace officers and shall have the same powers and authority, both within the City of Concord and Cabarrus County, as other peace officers of the city and county, including the common law of hot pursuit as set forth for ABC officers in Chapter 18A of the General Statutes.

"Sec. 5.16. Law enforcement - joint agreement. With approval of the board of aldermen, the alcoholic beverage control board may enter into a joint undertaking with any unit or units of government, whereby ABC officers employed by the board may exercise their power and authority outside the boundaries of Cabarrus County. When entering into such a joint undertaking, the alcoholic beverage control board shall execute a contract or agreement with the cooperating unit or units of government, and shall comply with the provisions of Part 1, Article 20, G.S. Chapter 160A relating to interlocal cooperation.

"Sections 5.17 through 5.20 reserved.

"CHAPTER 3.

"Firemen's Supplementary Pension Fund.

"Sec. 5.21. Fund created. There shall continue to be a supplementary pension fund for the Fire Department of the City of Concord, to be known as the 'Concord Firemen's Supplementary Fund', hereinafter referred to as the 'supplementary pension fund'. The fund shall be administered by a board of five trustees composed of the chief of the fire department of the city, two firemen who shall be elected by a majority vote of the chief and members of the fire department, and two members of the board of aldermen designated by the board upon recommendation of the chief and members of the fire department. The members of the board of trustees shall be elected for a term of one year and shall hold office until their successors are elected and qualified.

"Sec. 5.22. Transfer of funds. All funds coming into the firemen's relief fund under G.S. 118-5 that will increase the fund to an amount in excess of five hundred dollars ($500.00) shall be transferred immediately to the 'supplemental pension fund' so as to leave in the firemen's relief fund an amount not greater than five hundred dollars ($500.00) at any time.

"Sec. 5.23. Eligibility for benefits; retirement procedure. (a) Any person who is a full-time paid member of the Concord Fire Department, as shown by the records of the city, shall be eligible for benefits from the 'supplementary pension fund'; provided that no such person shall be eligible for benefits from the 'supplementary pension fund' unless such person has 30 years service in the Concord Fire Department or has been retired as a member of the Concord Fire Department under the Social Security Act, or any retirement system the city may participate in, or because of a disability. Any disability retirement shall be on a medical board's recommendation. The board of trustees shall designate a medical board composed of three physicians. In special or unusual cases, the board of trustees may employ one or more other physicians, if, in their opinion, the same shall be advisable or necessary. The medical board shall arrange for and make physical examinations and pass upon all medical examinations, all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusion and recommendations upon the matters referred to it. Upon the application of a member for disability retirement, he may be retired by the board of trustees not less than 30 days nor more than 90 days next following the date of filing application, provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

(b) Once each year during the first five years following retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board of trustees may, and upon his application, shall require any disability member who has not yet attained the age of 60 years to undergo a medical examination, such examination to be made at the place of residence of the member, or other place mutually agreed upon, by a physician or physicians designated by the board of trustees. Should any disability member who has not yet attained the age of 60 years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the board of trustees, his allowance may be discontinued until his

withdrawal of such refusal; and, should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of trustees.

(c) Should the medical board report and certify to the board of trustees that such disability member is engaged in, or is able to engage in, a gainful occupation paying more than the difference betwen his retirement allowance and the average annual compensation and should the board of trustees concur in such report, then the amount of his pension shall be reduced to an amount which together with his pension and the amount earnable by him, shall equal the amount of his average annual compensation. Should his earning capacity be later changed, the amount of his pension may be further modified. Should he be restored to a full employment in the Concord Fire Department, or by other employer, at a salary equal to his compensation at the time of disability, his retirement shall cease. Should it be determined he is physically able to return to full employment in the Concord Fire Department before he has attained 60 years of age and he refuses employment, he forfeits all rights to a retirement pension. This Chapter does not modify or alter in any way the Workmen's Compensation Laws of the State of North Carolina.

"Sec. 5.24. Retirement pension. Any full-time paid member of the fire department who retires or is retired under the provisions of this Chapter shall receive monthly for the remainder of his life from the 'supplementary pension fund' an amount equal to two percent (2%) for each five years of service up to 30 years' service; after 30 years or more service, he shall be eligible to receive fourteen percent (14%) of his average monthly compensation. In no case shall the retirement pension exceed fourteen percent (14%) of his monthly compensation at the time of retirement.

"Sec. 5.25. Treasurer. The Chief of the Concord Fire Department, as a member of the board of trustees of the 'supplementary pension fund', shall be treasurer and custodian of the fund and shall pay the beneficiaries thereof on the first day of each and every month any monies in his possession that such beneficiaries may be entitled to under the provisions of this Chapter.

"Sec. 5.26. Bond required. The Chief of the Concord Fire Department, as custodian of the 'supplementary pension fund', shall be required to give a bond with an indemnity company authorized to do business in the State of North Carolina as surety in a sum equal to one and one-quarter times the maximum amount estimated by the board of trustees as likely to be in his possession as such custodian at any time within the fiscal year for which the bond is given. The condition of the bond shall be that the custodian shall faithfully receive, keep, disburse and account for, as herein provided, all funds and property coming into his hands as such custodian, and the premiums on the bond shall be paid out of the 'supplementary pension fund'.

"Sec. 5.27. Investment of funds. The custodian of the 'supplementary pension fund' is authorized and directed to invest all monies coming into his possession belonging to the 'supplementary pension fund', except so much as the board of trustees from time to time determines is reasonably necessary for the prompt payment of claims and expenses, in such securities as the board of trustees shall select; provided, however, that such securities shall be limited to, and upon the same conditions as those enumerated by the General Statutes of North Carolina, as amended, as to the investment of trust funds and, or, the funds of guardians.

"Sec. 5.28. Gifts accepted. The board of trustees, as herein provided for, may, in its discretion, take and receive any gift, grant, bequest or devise or any real or personal property or other things of value for, and as, the property of the 'supplementary pension fund', and hold and disburse and invest the same for the use of the fund in accordance with the purpose of this Chapter and the conditions attached to any such gift, grant, bequest or devise.

"Sec. 5.29. Inconsistent provisions. The provisions of Chapter 118 of the General Statutes of North Carolina creating a firemen's relief fund are repealed as to the City of Concord insofar, and only insofar, as the provisions are inconsistent with and contradictory to the provisions of this Chapter.

"ARTICLE VI.

"SPECIAL PROVISIONS.

"Sec. 6.1. Power of eminent domain. The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable in the case of acquisition by the city or Board of Light and Water Commissioners of lands, easements, privileges, rights-of-way, and other interests in real property for sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain; and the city or Board of Light and Water Commissioners when seeking to acquire such property of rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or Board of Light and Water Commissioners or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation."

Sec. 2. The Board of Cemetery Commissioners of the City of Concord, created by Private Laws of 1921, Chapter 199, as amended, is hereby dissolved. All powers and duties of the board of cemetery commissioners are hereby conferred upon the board of aldermen, and all functions relating to the operation of and care for municipal cemeteries shall be performed by the City of Concord. All funds now held in trust for the perpetual care of Oakwood and Rutherford Cemeteries shall be administered by the City of Concord, and such funds shall continue to be used by the city for the perpetual care of these cemeteries.

Sec. 3. The purpose of this act is to revise the Charter of the City of Concord and to consolidate herein certain acts concerning the property, affairs, and government of the city. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 4. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Concord.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 5. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Private Laws of 1806, Chapter 43
Private Laws of 1819, Chapter 71
Private Laws of 1825, Chapter 146
Private Laws of 1826, Chapter 74
Private Laws of 1830-31, Chapter 98
Private Laws of 1849, Chapter 242
Private Laws of 1851, Chapter 329
Private Laws of 1874, Chapter 35
Private Laws of 1874, Chapter 127
Public Laws of 1875, Chapter 196
Public Laws of 1877, Chapter 205
Public Laws of 1877, Chapter 236
Private Laws of 1879, Chapter 119
Private Laws of 1883, Chapter 154
Private Laws of 1885, Chapter 13
Private Laws of 1889, Chapter 46
Private Laws of 1889, Chapter 136
Private Laws of 1889, Chapter 243
Private Laws of 1891, Chapter 232
Private Laws of 1891, Chapter 244
Private Laws of 1895, Chapter 170
Public Laws of 1897, Chapter 199
Private Laws of 1897, Chapter 94
Public Laws of 1899, Chapter 460
Private Laws of 1899, Chapter 325
Private Laws of 1901, Chapter 8
Private Laws of 1901, Chapter 9
Private Laws of 1901, Chapter 14
Private Laws of 1901, Chapter 103
Private Laws of 1903, Chapter 85
Private Laws of 1903, Chapter 86
Private Laws of 1905, Chapter 71
Private Laws of 1905, Chapter 226
Private Laws of 1905, Chapter 383
Private Laws of 1905, Chapter 391
Private Laws of 1907, Chapter 27
Private Laws of 1907, Chapter 344
Private Laws of 1907, Chapter 444
Private Laws of 1907, Chapter 483
Private Laws of 1907, Chapter 494
Private Laws of 1908, Extra Session, Chapter 47
Private Laws of 1911, Chapter 41
Private Laws of 1911, Chapter 227

Private Laws of 1911, Chapter 395
Private Laws of 1913, Chapter 101
Private Laws of 1913, Chapter 186
Private Laws of 1913, Chapter 368
Private Laws of 1913, Chapter 449
Private Laws of 1919, Chapter 14
Private Laws of 1919, Chapter 19
Private Laws of 1920, Extra Session, Chapter 14
Private Laws of 1921, Chapter 199
Private Laws of 1921, Chapter 247
Private Laws of 1921, Extra Session, Chapter 117
Private Laws of 1923, Chapter 110
Private Laws of 1923, Chapter 115
Private Laws of 1923, Chapter 124
Private Laws of 1925, Chapter 104
Private Laws of 1925, Chapter 153
Private Laws of 1925, Chapter 190
Private Laws of 1927, Chapter 162
Private Laws of 1929, Chapter 108
Private Laws of 1929, Chapter 109
Private Laws of 1933, Chapter 136
Private Laws of 1935, Chapter 265
Public-Local Laws of 1937, Chapter 158
Public-Local Laws of 1937, Chapter 329
Private Laws of 1937, Chapter 29
Public-Local Laws of 1939, Chapter 367
Public-Local Laws of 1941, Chapter 189
Session Laws of 1943, Chapter 148
Session Laws of 1945, Chapter 82
Session Laws of 1945, Chapter 83
Session Laws of 1945, Chapter 478
Session Laws of 1945, Chapter 623
Session Laws of 1947, Chapter 608
Session Laws of 1949, Chapter 377
Session Laws of 1949, Chapter 494
Session Laws of 1949, Chapter 495
Session Laws of 1949, Chapter 567
Session Laws of 1949, Chapter 886
Session Laws of 1951, Chapter 289
Session Laws of 1953, Chapter 303
Session Laws of 1955, Chapter 66
Session Laws of 1955, Chapter 140
Session Laws of 1955, Chapter 687
Session Laws of 1955, Chapter 1180
Session Laws of 1957, Chapter 300
Session Laws of 1957, Chapter 410
Session Laws of 1957, Chapter 976
Session Laws of 1959, Chapter 66
Session Laws of 1959, Chapter 1193
Session Laws of 1961, Chapter 427

Session Laws of 1963, Chapter 258
Session Laws of 1963, Chapter 259
Session Laws of 1965, Chapter 222
Session Laws of 1967, Chapter 1147
Session Laws of 1969, Chapter 221
Session Laws of 1971, Chapter 413
Session Laws of 1973, Chapter 936
Session Laws of 1973, 2nd Session 1974, Chapter 1184
Session Laws of 1975, Chapter 152
Session Laws of 1977, Chapter 33

Sec. 6. The following acts, having served the purpose for which they were enacted, are hereby repealed to the extent of their application to the City of Concord:

Session Laws of 1947, Chapter 716
Session Laws of 1953, Chapter 1297
Session Laws of 1955, Chapter 665
Session Laws of 1969, Chapter 617
Session Laws of 1975, Chapter 20

Sec. 7. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 8. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 9. All existing ordinances and resolutions of the City of Concord and all existing rules or regulations of departments or agencies of the City of Concord, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

Sec. 10. No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the City of Concord or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 11. If any of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 12. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 13. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 14. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 808 CHAPTER 745

AN ACT TO AMEND G.S. 148-45(e) TO PROVIDE THAT A SENTENCE FOR ESCAPE SHALL COMMENCE AT TERMINATION OF ANY OTHER SENTENCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-45(e), as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby rewritten to read as follows:

"(e) Any term of imprisonment imposed hereunder shall commence at the termination of any and all sentences to be served in the State prison system under which the person is held at the time an offense defined by this section is committed by such person. Persons charged with the offense of escape or attempt to escape under the provisions of this section shall not be entitled to plea conference consideration as provided in G.S. 15A-1021."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 971 CHAPTER 746

AN ACT TO INCREASE NONRESIDENT BIG GAME HUNTING LICENSE FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-95.2 is hereby amended on line 7 by striking the words and figures "four dollars and fifty cents ($4.50)" and by inserting in lieu thereof the words and figures "fourteen dollars and fifty cents ($14.50)".

Sec. 2. G.S. 113-96.1 is hereby amended by striking the figure "$5.00" from the ninth entry in the table of licenses and fees entitled "Nonresident big game license" and substituting in lieu thereof the figure "$15.00".

Sec. 3. The additional revenue derived from this license fee increase shall be allocated by the Wildlife Resources Commission for the purpose of adding such wildlife protectors to be assigned to areas which, as nearly as is practicable, reflect higher concentrations of big game as the funds may support to increase fish and wildlife law enforcement efforts.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1050 **CHAPTER 747**

AN ACT TO REVIVE AND IMPROVE CERTAIN PROVISIONS OF CHAPTER 75 OF THE GENERAL STATUTES, TO PROTECT THE CITIZENS OF NORTH CAROLINA FROM UNFAIR, UNETHICAL, DECEPTIVE AND UNSCRUPULOUS BUSINESS PRACTICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-1.1(a) is rewritten to read as follows:

"(a) Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are declared unlawful."

Sec. 2. G.S. 75-1.1(b) is rewritten to read as follows:

"(b) For purposes of this section, 'commerce' includes all business activities, however denominated, but does not include professional services rendered by a member of a learned profession."

Sec. 3. Chapter 75 of the General Statutes is amended by adding a new Section 75-15.2, to read as follows:

"§ 75-15.2. *Civil penalty.*—In any suit instituted by the Attorney General, in which the defendant is found to have violated G.S. 75-1.1 and the acts or practices which constituted the violation were, when committed, specifically prohibited by a court order or knowingly violative of a statute, the court may, in its discretion, impose a civil penalty against the defendant of up to five thousand dollars ($5,000) for each violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant. Any penalty so assessed shall be paid to the General Fund of the State of North Carolina."

Sec. 4. Chapter 75 of the General Statutes is amended by adding a new Article to read as follows:

"§ 75-50. *Definitions.*—The following words and terms as used in this act shall be construed as follows:

(a) 'Debt' means any obligation owed or due or alleged to be owed or due from a consumer.

(b) 'Consumer' means any natural person who has incurred a debt or alleged debt for personal, family, household or agricultural purposes.

(c) 'Debt collector' means any person engaging, directly or indirectly, in debt collection from a consumer except those persons subject to the provisions of Article 9, Chapter 66 of the General Statutes.

"§ 75-51. *Threats and coercion.*—No debt collector shall collect or attempt to collect any debt alleged to be due and owing from a consumer by means of any unfair threat, coercion, or attempt to coerce. Such unfair acts include, but are not limited to, the following:

(a) Using or threatening to use violence or any illegal means to cause harm to the person, reputation or property of any person.

(b) Falsely accusing or threatening to accuse any person of fraud or any crime, or of any conduct that would tend to cause disgrace, contempt or ridicule.

(c) Making or threatening to make false accusations to another person, including any credit reporting agency, that a consumer has not paid, or has willfully refused to pay a just debt.

(d) Threatening to sell or assign, or to refer to another for collection, the debt of the consumer with an attending representation that the result of such sale, assignment or reference would be that the consumer would lose any defense to the debt or would be subjected to harsh, vindictive, or abusive collection attempts.

(e) Representing that nonpayment of an alleged debt may result in the arrest of any person.

(f) Representing that nonpayment of an alleged debt may result in the seizure, garnishment, attachment, or sale of any property or wages unless such action is in fact contemplated by the debt collector and permitted by law.

(g) Threatening to take any action not in fact taken in the usual course of business, unless it can be shown that such threatened action was actually intended to be taken in the particular case in which the threat was made.

(h) Threatening to take any action not permitted by law.

"§ 75-52. *Harassment.*—No debt collector shall use any conduct, the natural consequence of which is to oppress, harass, or abuse any person in connection with the attempt to collect any debt. Such unfair acts include, but are not limited to, the following:

(a) Using profane or obscene language, or language that would ordinarily abuse the typical hearer or reader.

(b) Placing collect telephone calls or sending collect telegrams unless the caller fully identifies himself and the company he represents.

(c) Causing a telephone to ring or engaging any person in telephone conversation with such frequency as to be unreasonable or to constitute a harassment to the person under the circumstances or at times known to be times other than normal waking hours of the person.

(d) Placing telephone calls or attempting to communicate with any person, contrary to his instructions, at his place of employment, unless the debt collector does not have a telephone number where the consumer can be reached during the consumer's nonworking hours.

"§ 75-53. *Unreasonable publication.*—No debt collector shall unreasonably publicize information regarding a consumer's debt. Such unreasonable publication includes, but is not limited to, the following:

(a) Any communication with any person other than the debtor or his attorney, except:

(1) with the written permission of the debtor or his attorney;

(2) to persons employed by the debt collector, to a credit reporting agency, to a person or business employed to collect the debt on behalf of the creditor, or to a person who makes a legitimate request for the information;

(3) to the spouse (or one who stands in place of the spouse) of the debtor, or to the parent or guardian of the debtor if the debtor is a minor and lives in the same household with such parent;

(4) for the sole purpose of locating the debtor, if no indication of indebtedness is made;

(5) through legal process.

(b) Using any form of communication which ordinarily would be seen or heard by any person other than the consumer that displays or conveys any information about the alleged debt other than the name, address and phone number of the debt collector except as otherwise provided in this Article.

(c) Disclosing any information relating to a consumer's debt by publishing or posting any list of consumers, except for credit reporting purposes and the publication and distribution of otherwise permissible 'stop lists' to the point-of-sale locations where credit is extended, or by advertising for sale any claim to enforce payment thereof or in any other manner other than through legal process.

"§ 75-54. *Deceptive representation.*—No debt collector shall collect or attempt to collect a debt or obtain information concerning a consumer by any fraudulent, deceptive or misleading representation. Such representations include, but are not limited to, the following:

(a) Communicating with the consumer other than in the name (or unique pseudonym) of the debt collector and the person or business on whose behalf the debt collector is acting or to whom the debt is owed.

(b) Failing to disclose in all communications attempting to collect a debt that the purpose of such communication is to collect a debt.

(c) Falsely representing that the debt collector has in his possession information or something of value for the consumer.

(d) Falsely representing the character, extent, or amount of a debt against a consumer or of its status in any legal proceeding; falsely representing that the collector is in any way connected with any agency of the federal, State or local government; or falsely representing the creditor's rights or intentions.

(e) Using or distributing or selling any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by a court, an official, or any other legally constituted or authorized authority, or which creates a false impression about its source.

(f) Falsely representing that an existing obligation of the comsumer may be increased by the addition of attorney's fees, investigation fees, service fees, or any other fees or charges.

(g) Falsely representing the status or true nature of the services rendered by the debt collector or his business.

"§ 75-55. *Unconscionable means.*—No debt collector shall collect or attempt to collect any debt by use of any unconscionable means. Such means include, but are not limited to, the following:

(a) Seeking or obtaining any written statement or acknowledgement in any form containing an affirmation of any debt by a consumer who has been declared bankrupt, an acknowledgement of any debt barred by the statute of limitations, or a waiver of any legal rights of the debtor without disclosing the nature and consequences of such affirmation or waiver and the fact that the consumer is not legally obligated to make such affirmation or waiver.

(b) Collecting or attempting to collect from the consumer all or any part of the debt collector's fee or charge for services rendered, collecting or attempting to collect any interest or other charge, fee or expense incidental to the principal debt unless legally entitled to such fee or charge.

(c) Communicating with a consumer (other than a statement of account used in the normal course of business) whenever the debt collector has been notified by the consumer's attorney that he represents said consumer.

(d) Bringing suit against the debtor in a county other than that in which the debt was incurred or in which the debtor resides if the distances and amounts involved would make it impractical for the debtor to defend the claim.

"§ 75-56. *Application.*—The specific and general provisions of this Article shall exclusively constitute the unfair or deceptive acts or practices proscribed by G.S. 75-1.1 in the area of commerce regulated by this Article. Notwithstanding the provisions of G.S. 75-15.2, G.S. 75-16, and G.S. 75-16.1, civil penalties in excess of one thousand dollars ($1,000) shall not be imposed, nor shall damages be trebled or attorney's fees assessed for any violation under this Article nor shall the provisions of this Article be construed to confer any right of private action not already available at common law or by means of other specific statutory authorization."

Sec. 5. This act shall become effective upon ratification and shall not apply to pending litigation.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1124 CHAPTER 748

AN ACT TO AMEND ARTICLE 24A OF CHAPTER 58 OF THE GENERAL STATUTES RELATING TO MUTUAL BURIAL ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 13(b) of G.S. 58-241.9, as the same appears in the 1975 Supplement to Volume 2B of the General Statutes, is amended by striking from the third sentence thereof, beginning in line 10, the words "plus any amount of the thirty percent (30%) allowed from and after that date for operating expenses as set forth in paragraph (a) above and not actually expended in the year allowed.", and by placing a period after the word "date" in line 10 thereof.

Sec. 2. Article 10 of G.S. 58-241.9, as the same appears in the 1975 Supplement to Volume 2B of the General Statutes, is amended by rewriting the second and third sentences of the first paragraph thereof as follows: "Upon the death of any member, it shall be the duty of the person or persons making the funeral arrangements for such deceased member to notify the secretary of the member's burial association of the death of such member. The person or persons making the funeral arrangements for such deceased member shall have 30 days from the date of the death of such member in which to make demand upon the burial association for the funeral benefits to which such member is entitled."

Sec. 3. G.S. 58-241.11, as the same appears in the 1975 Supplement to Volume 2B of the General Statutes, is amended by rewriting the third sentence thereof to read as follows: "Thereafter, the Burial Association Administrator shall assess each burial association fifty dollars ($50.00) and shall pro rate the remaining amount of this budget, over and above any other funds made available to him for this purpose, and assess each association on a pro rata basis in accordance with the number of members of each association."

Sec. 4. The Burial Association Administrator shall have authority to examine all records relating to a burial association's financial condition wherever such records are located, including records maintained by any corporation, building and loan association, savings and loan association, credit union, or other legal entity organized and operating pursuant to the authority contained in Chapters 53 and 54 of the General Statutes.

Sec. 5. Whenever in the opinion of the Burial Association Administrator he deems it necessary for the protection of the interest of members of a burial association, he shall have authority by written order to direct that the funds of any burial association on deposit in any institution organized and operating under Chapters 53 and 54 of the General Statutes be frozen and not paid out by such legal entity. Any legal entity freezing the funds of a burial association pursuant to the directive of the Burial Association Administrator shall not be liable to any burial association for freezing said account pursuant to the order of the administrator.

Sec. 6. Article 4 of G.S. 58-241.9, as the same appears in the 1975 Supplement to Volume 2B of the General Statutes, is amended by striking the words "three times" in line 2 of the second paragraph and substituting in lieu thereof the word "once". Said paragraph is further amended by striking the word "three" in lines 4 and 5 and substituting the word "one" and by striking the letter "s" in the word "audits" in line 5 thereof.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1160 CHAPTER 749

AN ACT TO ALLOW AN INCREASE IN THE PERCENTAGE OF SUPERVISORY PERSONNEL IN THE STATE HIGHWAY PATROL FROM EIGHTEEN PERCENT TO TWENTY-ONE PERCENT.

The General Assembly of North Carolina enacts:

Section 1. The fourth sentence of subsection (a) of G.S. 20-185, as the same appears in the 1975 Supplement to Volume 1C of the General Statutes, is rewritten to read as follows:

"Notwithstanding any other provision of this Article, the number of supervisory personnel of the State Highway Patrol shall not exceed a number equal to twenty-one percent (21%) of the personnel actually serving as uniformed highway patrolmen."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1241 CHAPTER 750

AN ACT TO DELETE DOROTHEA DIX HOSPITAL FROM THE PROVISIONS OF G.S. 129-42.1.

The General Assembly of North Carolina enacts:

Section 1. G.S. 129-42.1 is amended on line 6 by adding after the word and punctuation "Correction," the words and punctuation "Department of Human Resources," and on lines 12 and 13 by deleting the words "and Dorothea Dix Hospital".

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1297 CHAPTER 751

AN ACT TO ADD A NEW SECTION G.S. 1-42.4 TO EXTINGUISH ANCIENT MINERAL CLAIMS IN ASHE COUNTY AND TO REQUIRE THAT OIL, GAS AND MINERAL INTERESTS WITHIN ASHE COUNTY BE RECORDED AND LISTED FOR TAXATION.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 1 of the General Statutes, as the same appears in the 1975 Cumulative Supplement to Volume 1A of the General Statutes, is hereby amended by adding a new section G.S. 1-42.4, to read as follows:

"§ 1-42.4. *Additional amount mineral claims extinguished; oil, gas and minteral interests to be recorded and listed for taxation.*—(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interest in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, or that the record titleholder of any such oil, gas or mineral interest has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of 10 years prior to January 1, 1977, any person having the legal capacity to own land in this State, who has on September 1, 1977, an unbroken chain of title of record to such surface estate of such area of land for at least 50 years, and provided such surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to such surface estate as provided in the succeeding subsections of this section, subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed.

(b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interests in such area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was executed or recorded at least 50 years or more prior to September 1, 1977, and such oil, gas or mineral interests are hereby declared to be null and void and of no effect whatever at law or in equity: Provided, however, that any such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two years after September 1, 1977, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of such oil, gas or mineral interest and gives the book and page where recorded. Such notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein such area of land or any part thereof lies, and in the book therein kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant and, if known, the name of the surface owner and also contain either such a description of the area of land involved as to make said property readily located thereby or due incorporation by reference of the recorded instrument containing the

reservation or exception of such oil, gas or mineral interest. Such notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) Within two years from November 1, 1977, all oil, gas or mineral interests in lands severed or separated from the surface fee simple ownership must be listed for ad valorem taxes and notice of such interests must be filed in writing in the manner provided by G.S. 1-42.4(b) and recorded in the local registry in the book provided by G.S. 1-42, to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina. The board of county commissioners shall publish a notice of this subsection in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to November 1, 1977. The provisions of this subsection shall apply to the following county: Ashe."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1362 CHAPTER 752

AN ACT TO AMEND G.S. 163-288.1 RELATING TO CITY VOTERS IN ANNEXED TERRITORY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-288.1(a) is amended by striking the period after the end of the last sentence and adding the following words and punctuation:

"or when activating voters after an annexation of new territory by a city or special district under G. S. Chapter 160A, Article 4A, or other general or local law."

Sec. 2. G.S. 163-288.2(a) is repealed and rewritten to read as follows:

"§ 163-288.2. *Registration in area proposed for incorporation or annexed.*—(a) Whenever the General Assembly incorporates a new city and provides in the act of incorporation for a referendum on the question of incorporation or for a special election for town officials or for both, or whenever an existing city or special district annexes new territory under the provisions of G. S. Chapter 160A, Article 4A, or other general or local law, the board of elections of the county in which the proposed city is located or in which the newly annexed territory is located shall determine those individuals eligible to vote in the referendum or special election or in the city or special district elections. In

determining the eligible voters the board may, in its discretion, use either of the following methods:

METHOD A.—The board of elections shall prepare a list of those registered voters residing within the proposed city or newly annexed territory. The board shall make this list available for public inspection in its office for a two-week period ending 21 days (excluding Saturdays and Sundays) before the day of the referendum or special election, or the next scheduled city or special district election. During this period, any voter resident within the proposed city or newly annexed territory and not included on the list may cause his name to be added to the list. At least one week and no more than two weeks before the day the period of public inspection is to begin, the board shall cause notice of the list's availability to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state that the list has been prepared, that only those persons listed may vote in the referendum or special election, that the list will be available for public inspection in the board's office, that any qualified voter not included on the list may cause his name to be added to the list during the two-week period of public inspection, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory.

METHOD B.—The board of elections shall conduct a special registration of eligible persons desiring to vote in the referendum or special election or in the newly annexed territory. The registration records shall be open for a two-week period (except Sundays) ending 21 days (excluding Saturdays and Sundays) before the day of the referendum or special election or the next scheduled city or special district election. On the two Saturdays during that two-week period, the records shall be located at the voting place for the referendum or special election or the next scheduled city or special district election; on the other days it may, in the discretion of the board, be kept at the voting place, at the office of the board, or at the place of business of a person designated by the board to conduct the special registration. At least one week and no more than two weeks before the day the period of special registration is to begin, the board shall cause notice of the registration to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state the purpose and times of the special registration, the location of the registration records, that only those persons registered in the special registration may vote in the referendum or special election, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory.

(b) Only those persons registered pursuant to this section may vote in the referendum or special election, provided, however, that in cases where voters are activated under either Method A or B to vote in a city or special district that annexes territory, the city or special district shall permit them to vote in the city or special district's election and shall, as well, permit other voters to vote in such elections who did not register under the provisions of this section if they are otherwise registered, qualified and eligible to vote in the same."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1398 CHAPTER 753

AN ACT TO AMEND THE GENERAL STATUTES RELATING TO THE TIME AT WHICH CLAIM AND DELIVERY MAY BE SOUGHT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-472, as the same appears in the 1969 Replacement Volume 1A of the General Statutes, is hereby rewritten to read as follows:

"§ 1-472. *Claim for delivery of personal property.*—The plaintiff in an action to recover the possession of personal property may claim the immediate delivery of the property as provided in this Article at any time before the judgment in the principal action."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1479 CHAPTER 754

AN ACT TO REQUIRE INDIVIDUALS ENGAGED IN COMMERCIAL FISHING OPERATIONS IN A VESSEL OWNED BY ANOTHER TO BE ELIGIBLE FOR COMMERCIAL FISHING LICENSES IN THEIR OWN RIGHT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-152 is amended by deleting the second sentence of subsection (b) thereof and by substituting in lieu thereof the following sentence:

"It is unlawful for the individual or corporate owner of a licensed vessel or any persons with the authority to authorize the use of a licensed vessel to permit any individual who is not eligible to have the license issued to him in his own right to command such licensed vessel for the purpose of engaging in commercial fishing operations."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1494 CHAPTER 755

AN ACT TO REWRITE THE ENTRY REQUIREMENTS FOR OPTICIANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-236 is hereby amended by changing the period at the end of the paragraph to a comma and adding the words:

"provided, however, that the provisions of this section shall not apply to students and apprentices."

Sec. 2. G.S. 90-237 is amended by rewriting subdivisions (2) and (3) and adding subdivisions (4) and (5) so as to read as follows:

"(2) unless such person is at least 18 years of age;

(3) unless such person has satisfactorily passed an examination conducted by the board to determine his fitness to engage in the practice of a dispensing optician;

(4) unless such person is of good moral character as evidenced by two letters of recommendation;

(5) unless such person has completed one year of practical apprenticeship training by working full time under the supervision of a licensed optician and has demonstrated proficiency in the areas of measurement of the face, and fitting and adjusting glasses and frames to the face."

Sec. 3. G.S. 90-240 is hereby rewritten as follows:

"§ 90-240. *Qualifications for taking the examination; subjects examined.*— Applicants to take the examination for dispensing opticians shall be high school graduates or equivalents with two years training in a recognized school of opticianry with a minimum of 1600 hours or in lieu thereof, five years of practical training and experience under a licensed optician with time spent in a recognized school credited as part of the apprenticeship period. The examination shall be confined to such knowledge as is essential to practice as a dispensing optician and shall show proficiency in the following subjects:

ophthalmic lens surface grinding;
prescription interpretation;
practical anatomy of the eye;
theory of light;
edge grinding;
ophthalmic lenses;
measurements of face;
finishing, fitting, and adjusting glasses and frames to face.

An applicant for admission on the basis of practical training shall have worked full time under the supervision of a licensed optician with concentration in ophthalmic lens surface grinding, edge grinding, ophthalmic lenses, mounting and general bench work; and prescription interpretation."

Sec. 4. G.S. 90-241 is amended by changing the words and figures "twenty dollars ($20.00)" one line 3 to "thirty-five dollars ($35.00)".

Sec. 5. G.S. 90-246 is amended by changing the words and figures "twenty-five dollars ($25.00)" on line 4 to "forty dollars ($40.00)".

Sec. 6. G.S. 90-249 is hereby amended by deleting the first paragraph thereof and inserting in its place the following:

"The board shall have the power to make rules and regulations not inconsistent with the laws of the State of North Carolina to empower the board to have authority to make rules and regulations with respect to the following areas of the field of opticianry in North Carolina:

(1) misrepresentation to the public
(2) baiting or deceptive advertising
(3) fining of repetitive violators of the law
(4) requiring of continuing education
(5) location of registrants in the State
(6) legally established optical place of business registered with board
(7) photograph for files for identification purposes
(8) educational qualifications to sit for examination and subject matter
(9) terms of licensure examination and re-examination
(10) reinstatement of licensure

(11) renewal fees, late penalty (up to number of dollars)
(12) recognized schools of opticianry accredited by the National Academy of Opticians
(13) apprenticeship requirements and registration of apprentices
(14) additional training requisite to licensure.

The board shall have the power to revoke any certificate of registration granted by it under this Article for conviction of crime."

Sec. 7. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 1499 CHAPTER 756

AN ACT TO AMEND G.S. 122-56.7 TO REQUIRE THAT NOTICE BE GIVEN TO THE PARENT OR GUARDIAN OF A MINOR OR A PERSON ADJUDICATED NON COMPOS MENTIS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-56.7 is amended by adding subsection (d) as follows:

"(d) In addition to the notice of hearings and rehearings to the respondent and his counsel required under G.S. 122-58.5 and G.S. 122-58.11(a) respectively, notice shall be given by the clerk to the parent, person standing in *loco parentis*, or guardian of a minor or a person adjudicated *non compos mentis* in accordance with the provisions of G.S. 122-58.18A."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 359 CHAPTER 757

AN ACT TO REWRITE G.S. 29-21 AND G.S. 29-22 TO RECOGNIZE INHERITANCE RIGHTS OF THE FATHER OF AN ILLEGITIMATE INTESTATE AS PROVIDED FOR IN G.S. 29-19.

The General Assembly of North Carolina enacts:

Section 1. G.S. 29-21, as it appears in 1976 Replacement Volume 2A of the General Statutes, is rewritten to read as follows:

"§ 29-21. *Share of surviving spouse.*—The share of the surviving spouse of an illegitimate intestate shall be the same as provided in G.S. 29-14 for the surviving spouse of a legitimate person. In determining whether the illegitimate intestate is survived by one or more parents as provided in G.S. 29-14(3), any person identified as the father under G.S. 29-19(b)(1) or (b)(2) shall be regarded as a parent."

Sec. 2. G.S. 29-22, as it appears in 1976 Replacement Volume 2A of the General Statutes, is rewritten to read as follows:

"§ 29-22. *Shares of others than the surviving spouse.*—Those persons surviving the illegitimate intestate, other than the surviving spouse, shall take that share of the net estate provided in G.S. 29-15. In determining whether the illegitimate intestate is survived by one or more parents or their collateral

kindred as provided in G.S. 29-15, any person identified as the father under G.S. 29-19(b)(1) or (b)(2) shall be regarded as a parent."

Sec. 3. G.S. 29-19(b)(1) is rewritten to read as follows:

"(1) Any person who has been finally adjudged to be the father of such child pursuant to the provisions of G.S. 49-1 through 49-9 or the provisions of G.S. 49-14 through 49-16;."

Sec. 4. This act shall become effective upon ratification and shall be effective as to estates of decedents dying on or after September 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 405 CHAPTER 758

AN ACT TO RESTRICT THE TRAPPING OF ANIMALS IN NASH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, and notwithstanding any rule, regulation or order heretofore or hereafter adopted or issued by the North Carolina Wildlife Resources Commission or its successor agency, except as hereinafter provided, it shall be unlawful to set any trap of any kind or description or to attempt to trap, or trap any animal of any kind in Nash County. Any owner of real estate may trap on his own land or give written permission annually to others to do so.

Sec. 2. Any person convicted of a violation of this act shall be guilty of a misdemeanor and shall be fined an amount not to exceed three hundred dollars ($300.00) and/or imprisoned up to a period of six months in the discretion of the court.

Sec. 3. This act shall be in full force and effect on and after July 1, 1977.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 472 CHAPTER 759

AN ACT TO DEVELOP A PLAN AND POLICY OF WILDLIFE MANAGEMENT FOR ALL LANDS SUITABLE FOR THIS PURPOSE OWNED BY THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-306, as the same appears in the 1975 Replacement Volume 3A, is hereby amended by adding thereto a new subsection, subsection (d), reading as follows:

"(d) The Wildlife Resources Commission is hereby authorized and directed to develop a plan and policy of wildlife management for all lands owned by the State of North Carolina which are suitable for this purpose. The Division of State Property and Construction of the Department of Administration shall determine which lands are suitable for the purpose of wildlife management. Nothing in the wildlife management plan shall prohibit, restrict, or require the change in use of State property which is presently being used or will in the future be used to carry out the goals and objectives of the State agency utilizing

such land. Each plan of wildlife management developed by the Wildlife Resources Commission shall consider the question of public hunting; and whenever and wherever possible and consistent with the primary land use of the controlling agency, public hunting shall be allowed under cooperative agreement with the Wildlife Resources Commission. Any dispute over the question of public hunting shall be resolved by the Division of State Property and Construction."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 540 CHAPTER 760

AN ACT TO AMEND G.S. 36-23.2(a1) RELATIVE TO AMENDMENT OF TRUSTS TO MEET THE REQUIREMENTS OF SECTION 2055(e)(2)(A) OF THE INTERNAL REVENUE CODE OF 1954.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36-23.2(a1) is hereby amended by striking out "September 21, 1974" each place it appears therein and inserting in lieu thereof "December 31, 1977".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 734 CHAPTER 761

AN ACT TO AMEND G.S. 14-234 TO PROHIBIT STATE OFFICIALS AND EMPLOYEES FROM PARTICIPATING IN ANY BUSINESS TRANSACTION INVOLVING PUBLIC FUNDS WITH A FORMER EMPLOYER OR BUSINESS ASSOCIATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-234 is hereby amended by designating the first paragraph as subsection (a) and the second paragraph as subsection (b) and adding new subsections to read as follows:

"(c) No director, board member, commissioner, or employee of any State department, agency, or institution shall directly or indirectly enter into or otherwise participate in any business transaction involving public funds with any firm, corporation, partnership, person or association which at any time during the preceding two-year period employed or otherwise had a financial association with such director, board member, commissioner or employee.

(d) The provisions of subsection (c) shall not apply to any transactions meeting the requirements of Article 3, Chapter 143 of the General Statutes or any other transaction specifically authorized by the Advisory Budget Commission.

(e) Anyone violating this section shall be guilty of a misdemeanor."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 756

CHAPTER 762

AN ACT TO REWRITE G.S. 20-81 CONCERNING THE ISSUANCE OF OFFICIAL LICENSE PLATES TO STATE OFFICIALS AND TO CORRECT UNCERTAINTIES RESULTING FROM THE ENACTMENT OF CHAPTER 865 AND CHAPTER 432 OF THE 1975 SESSION LAWS.

Whereas, Chapter 865 of the 1975 Session Laws ratified June 26, 1975, effective July 1, 1975, rewrote G.S. 20-81; and

Whereas, Chapter 432 of the 1975 Session Laws, ratified May 28, 1975, effective January 1, 1976, also rewrote G.S. 20-81; and

Whereas, it is possible that Chapter 865 of the 1975 Session Laws, having the latter ratification date, could be interpreted as repealing Chapter 432 of the 1975 Session Laws or that Chapter 432 of the 1975 Session Laws, having the later effective date, could be interpreted as repealing Chapter 865 of the 1975 Session Laws as of January 1, 1976; and

Whereas, because of this uncertainty, it is necessary that G.S. 20-81 be rewritten in its entirety; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81 is rewritten to read as follows:

"§ 20-81. *Official license plates.*—Official license plates issued to State officials shall be subject to the same fees and transfer provisions as provided in G.S. 20-87 and G.S. 20-64 respectively and shall be issued as follows:

(1) Senate and Congressional. Official license plates issued to the United States Senators shall bear the words 'U. S. Senate', be numbered 1 and 2, and shall be issued on the basis of seniority. The official plates issued to United States Congressmen shall bear the words 'U. S. House' and be numbered 1 through 11 and shall be issued on the basis of congressional districts.

(2) North Carolina General Assembly. Official plates issued to members of the North Carolina State Senate or House of Representatives shall bear the words 'Senate' or 'State House' followed by the Senator's or Representative's assigned seat number.

(3) Judicial. Official plates issued to the judiciary shall be issued as follows:

a. Appellate Division. Official plates that shall be issued upon request to the Chief Justice and Associate Justices of the Supreme Court of North Carolina and the Chief Judge and Associate Judges of North Carolina Court of Appeals shall bear the letter 'J' followed by numerical designation from 1 through 19. The Chief Justice upon request shall be issued the plate bearing number 1 and the remaining plates shall first be issued upon request to the Associate Justices on the basis of seniority. The Chief Judge shall be issued upon request the next such judicial plate and the remaining plates shall be issued upon request to the Associate Judges on the basis of seniority. Retired members of the Supreme Court and the Court of Appeals shall receive an official plate upon request similar in every respect to the plate issued to the regular justices and judges bearing the numerical designation of his or her position of seniority at the time of retirement except that the numerical designation shall be followed with the letter 'X'. Official plate J-20 may be issued upon request to the Director of the Administrative Office of the Courts.

b. Superior court. Official plates shall be issued to the various senior resident judges of the superior court upon request and shall bear the letter 'J' followed by a numerical designation equal to the sum of the numerical designation of their respective judicial districts plus 20. Where there is more than one resident judge of the superior court within a district, official plates shall upon request be issued to other resident judges serving within the district similar to the official plate to be issued upon request to the senior resident judge of the district except the numerical designation on each subsequent plate shall be followed by a letter of the alphabet beginning with the letter 'A', which shall be indicative of the recipient's position as to seniority. Special judges and emergency judges of the superior court shall be issued an official plate bearing the letter 'J' with a numerical designation as designated by the Administrative Office of the Courts with the approval of the Chief Justice of the Supreme Court of North Carolina. Retired judges shall be issued a similar plate except that the numerical designation shall be followed by the letter 'X'.

c. North Carolina district court judges. An official plate shall be issued upon request to each chief judge of the district courts of North Carolina which shall bear the letter 'J' followed by a numerical designation equal to the sum of the numerical designation of their respective judicial districts plus 100 and all other judges of the district courts serving within the same judicial district shall, upon request, be issued an official plate bearing the same letter and numerical designation as appears on the official plate issued to the chief district judge of the judicial district except that on each subsequent official plate issued within a district, the numerical designation shall be followed by a letter of the alphabet beginning with the letter 'A' which shall be indicative of the recipient's position as to seniority. Retired judges shall be issued a similar plate except that the numerical designation shall be followed by the letter 'X'.

d. District attorneys. Officials plates shall be issued upon request to the various district attorneys which plates shall bear the letters 'DA' followed by a numerical designation indicative of their judicial district.

e. United States judges. Official plates shall be issued upon request to Justices of the United States Supreme Court, Judges of the United States Circuit Court of Appeals and to the District Judges of the United States District Courts residing in North Carolina and shall bear the words 'U.S. Judge' followed by a numerical designation beginning with the number '1' which shall be indicative of the judge's seniority position as to the date he began continuous service as a United States Judge as designated by the Secretary of State. Retired judges and judges who have taken senior status shall be issued similar plates except that the numerical designation shall be based upon the date of such retirement or assumption of senior status and shall follow the numerical designation of active justices and judges.

f. United States Attorneys. Official plates shall be issued upon request to the United States Attorneys, which plates shall bear the letters, 'U.S. Attorney', followed by a numerical designation indicative of their district, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.

(4) Elective and Appointive. Official plates issued to elective and appointive members of State government shall bear number designations beginning with number 1 which shall be assigned to the Governor of North Carolina and numbers following thereafter shall be issued to in the following order:

2. Lieutenant Governor of North Carolina
3. Speaker of the House of Representatives
4. President Pro Tempore of the Senate
5. Secretary of State
6. State Auditor
7. State Treasurer
8. Superintendent of Public Instruction
9. Attorney General
10. Commissioner of Agriculture
11. Commissioner of Labor
12. Commissioner of Insurance
13. Speaker Pro Tempore of the House
14. Legislative Services Officer
15. Secretary of Administration
16. Secretary of Natural Resources and Community Development
17. Secretary of Revenue
18. Secretary of Human Resources
19. Secretary of Commerce
20. Secretary of the Department of Correction
21. Secretary of Cultural Resources
22. Secretary of Crime Control and Public Safety

23-29. To be reserved for and assigned to members of the Governor's staff at the direction of the Governor.

30. State Budget Officer
31. State Personnel Director

32-41. To be reserved for and assigned to nonlegislative members of the Advisory Budget Commission at the direction of the Governor

42. Chairman, State Board of Education
43. President, U. N. C. System
44. Chairman, A.B.C. Board
45. Member, A.B.C. Board
46. Member, A.B.C. Board
47. Assistant Commissioner of Agriculture
48. Assistant Commissioner of Agriculture
49. Deputy Secretary of State
50. Deputy State Treasurer
51. Assistant State Treasurer
52. Deputy Commissioner, Department of Labor
53. Chief Deputy, Department of Insurance
54. Assistant Commissioner of Insurance

55-65. Shall be reserved for and assigned to the Attorney General's deputies and assistants only. Specific number assignments shall be at the direction of the Attorney General.

66-88. Shall be reserved for and assigned upon request to nonlegislative members of the Board of Economic Development. Specific number

assignments to such members shall be at the direction of the Governor.

89-96. Shall be reserved for and assigned upon request to nonlegislative members of the State Ports Authority. Specific number assignments to such members shall be at the direction of the Governor.

97-104. Shall be reserved for and assigned upon request to members of the Utilities Commission. Number 97 to be upon request assigned to the Chairman of the Utilities Commission with remaining numbers to be assigned upon request to the remaining members of the Utilities Commission on the basis of seniority.

105-109. Shall be reserved for and assigned upon request to members of the Parole Commission. Number 105 to be upon request assigned to the Chairman of the Parole Commission with remaining numbers to be assigned upon request to the remaining members of the Parole Commission on the basis of seniority.

110-200. Shall be reserved for and assigned upon request to members of State boards and commissions and State employees at the direction of the Governor.

(5) Department of Transportation. Official plates shall be issued upon request to various members of the divisions of the Department of Transportation which shall bear the letters 'DOT' followed by a number designated from 1 through 85. Specific number assignments to members of the Divisions of the Department of Transportation shall be at the direction of the Governor.

License plates issued to State officials by the Division of Motor Vehicles of the Department of Transportation pursuant to this section shall be assessed a fee of ten dollars ($10.00), in addition to any fees charged under G.S. 20-87 and G.S. 20-88. These plates will be subject to the same transfer provisions as provided in G.S. 20-64.

The revenue derived from the additional fee for such plates shall be placed in a separate fund designated the 'Officials Registration Plate Fund'. After deducting the cost of the plates, plus budgetary requirements for handling an issuance, to be determined by the Commissioner of Motor Vehicles, any remaining monies derived from the additional fee for such plate shall be periodically transferred in accordance with G.S. 20-81.3(c)."

Sec. 2. Chapter 432 of the 1975 Session Laws and Chapter 865 of the 1975 Session Laws are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 839 **CHAPTER 763**

AN ACT REQUIRING HEADS OF STATE DEPARTMENTS TO REPORT POSSIBLE VIOLATIONS OF THE CRIMINAL STATUTES INVOLVING MISUSE OF STATE PROPERTY TO THE STATE BUREAU OF INVESTIGATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 114 of the General Statutes is amended by adding a new subsection 114-15.1 to read as follows:

"§ 114-15.1. *Department heads to report possible violations of criminal statutes involving misuse of State property to State Bureau of Investigation.*— Any person employed by the State of North Carolina, its agencies or institutions, who receives any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property, shall as soon as possible, but not later than three days from receipt of the information or evidence, report such information or evidence to his immediate supervisor, who shall in turn report such information or evidence to the head of the respective department, agency, or institution. The head of any department, agency, or institution receiving such information or evidence shall, within a reasonable time but no later than 10 days from receipt thereof, report such information in writing to the Director of the State Bureau of Investigation.

Upon receipt of notification and information as provided for in this section, the State Bureau of Investigation shall, if appropriate, conduct an investigation.

The employees of all State departments, agencies and institutions are hereby required to cooperate with the State Bureau of Investigation, its officers and agents, as far as may be possible, in aid of such investigation.

If such investigation reveals a possible violation of the criminal laws, the results thereof shall be reported by the State Bureau of Investigation to the District Attorney of any district if the same concerns persons or offenses in his district."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

S. B. 843 **CHAPTER 764**

AN ACT TO AMEND "THE NORTH CAROLINA METROPOLITAN SEWERAGE DISTRICTS ACT", G.S. 162A-66 AND G.S. 162A-68 TO PROVIDE THAT CERTAIN PETITIONS THEREUNDER MUST BE SIGNED BY QUALIFIED VOTERS RATHER THAN FREEHOLDERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-66 is amended on line 15 by deleting the word "freeholders" and by substituting in lieu thereof the words "qualified voters".

Sec. 2. G.S. 162A-68 is amended on line 4 by deleting the word "freeholders" and by substituting in lieu thereof the words "qualified voters", and one line 64 by deleting the word "freeholder" and by substituting in lieu thereof the words "qualified voters".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of June, 1977.

H. B. 124 CHAPTER 765

AN ACT TO PROHIBIT SETTING OR USING TRAP OF LEG-GRIPPING OR CONNIBEAR TYPE IN ALLEGHANY, AVERY, CLEVELAND, FORSYTH, MITCHELL, MOORE, NASH, STOKES AND YADKIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. No person shall set any trap of any kind or description, or otherwise attempt to set any trap of any kind or description, or attempt to trap any animal on lands other than his own, unless the person setting or attempting to set such trap, or attempting to trap such animal, has in his possession a written permission, dated within one calendar year, from the owner or owners of the land where such act occurs granting permission to trap thereon.

Sec. 2. No person shall set any trap, or attempt to set any trap known as "steel jaw", "leghold" or "connibear", unless it is manufactured or modified so that it:

(1) is horizontally offset with a closed jaw gap of at least three-sixteenths of an inch in trap size No. 3 and No. 4;

(2) has a jaw spread of not more than 7 1/2 inches;

(3) has a shock absorbing device attached to the chain of trap sizes No. 3 and No. 4 if traps are set on dry land and the chain is over 12 inches;

(4) is smooth edged and without teeth;

(5) has tag attached giving the owner's name and address.

Sec. 3. Provided that nothing in this act shall prohibit the use of steel or metal jaw traps by county or State Public Health Officials or their designated agents in order to control the spread of disease when the use of such steel or metal jaw traps has been declared necessary by the Department of Human Resources.

Sec. 4. Upon conviction for violation of this act, punishment shall not exceed 10 days' imprisonment, or a fine not exceeding one hundred dollars ($100.00) or both in the discretion of the court.

Sec. 5. This act shall apply to Alleghany, Avery, Cleveland, Forsyth, Mitchell, Moore, Nash, Stokes and Yadkin Counties only.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 356

CHAPTER 766

AN ACT TO AMEND CHAPTER 7A OF THE GENERAL STATUTES PERTAINING TO THE JUDICIAL PROCEDURE APPLICABLE TO JUVENILES TO ALLOW THE APPOINTMENT OF AN ATTORNEY AS GUARDIAN AD LITEM FOR ANY CHILD ALLEGED TO BE NEGLECTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-283, as the same appears in Volume 1B of the 1975 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by inserting after the third paragraph thereof the following paragraphs:

"In cases in which the petition alleges that a child is neglected, the court shall appoint a guardian *ad litem* to represent the child unless the court shall find as a fact that the child is not in need of and cannot benefit from such representation. The duties of the guardian *ad litem* shall be to make an investigation to determine the facts, the needs of the child, and the resources available within the family and in the community to meet those needs; to appear on behalf of the child in the juvenile proceeding and to perform necessary and appropriate legal services on behalf of the child in order to present the relevant facts to the court at the adjudicatory part of the hearing and the possible options to the court at the dispositional part of the hearing; to serve the child and the court by protecting and promoting the best interests of and the least detrimental alternatives for the child at every stage of the proceeding until formally relieved of the responsibility by the court; to appeal, when deemed advisable, from an adjudication or order of disposition to the Court of Appeals pursuant to G.S. 7A-289. The court shall order the Department of Social Services to conduct follow-up investigations as necessary to insure that the orders of the court are being properly executed and to report to the court when the needs of the child are not being met.

The guardian *ad litem* shall be an attorney-at-law, licensed to practice in the State of North Carolina, who shall be compensated as in cases of indigency. The court may order those parents, guardians, or custodians who have sufficient income to reimburse, in whole or in part, the State treasury, for the expenses involved in such representation. In no case shall the court appoint a public defender as guardian *ad litem.*

The court may order that the guardian *ad litem* have the authority to demand the release to him and the court of any information or reports, whether or not confidential, that may in his opinion be relevant to the case. This provision shall apply specifically, but not exclusively, to any professional person, including but not limited to those listed by profession in the Child Abuse Reporting Law, G.S. 110-117(5). Neither the physician-patient privilege nor the husband-wife privilege may be invoked to prevent the guardian *ad litem* and the court from obtaining such information. The confidentiality of such information or reports shall be respected by the guardian *ad litem* and no disclosure of any such information or reports shall be made to anyone except by order of the presiding judge."

Sec. 2. G.S. 7A-451(a), as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by adding at the end thereof the following subdivision:

"(12) In the case of a juvenile alleged to be neglected under Chapter 7A, Article 23 of the General Statutes."

Sec. 3. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 4. This act shall become effective 90 days after ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 432 CHAPTER 767

AN ACT TO MAKE UNLAWFUL THE ALTERATION, DESTRUCTION, OR REMOVAL OF SERIAL NUMBERS OR OTHER PERMANENT IDENTIFICATION MARKS FROM PERSONAL PROPERTY AND TO MAKE UNLAWFUL THE SALE, PURCHASE OR POSSESSION OF PROPERTY ON WHICH THE SERIAL NUMBER OR PERMANENT IDENTIFICATION MARK HAS BEEN SO ALTERED, DESTROYED, OR REMOVED; AND SET THE PUNISHMENT THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. Article 23 of Chapter 14 of the General Statutes is amended by inserting a new section to be designated "G.S. 14-160.1" and to read as follows:

"§ 14-160.1. *Alteration, destruction or removal of permanent identification marks from personal property.*—(a) It shall be unlawful for any person to alter, deface, destroy or remove the permanent serial number, manufacturer's identification plate or other permanent, distinguishing number or identification mark from any item of personal property with the intent thereby to conceal or misrepresent the identity of said item.

(b) It shall be unlawful for any person knowingly to sell, buy or be in possession of any item of personal property, not his own, on which the permanent serial number, manufacturer's identification plate or other permanent, distinguishing number or identification mark has been altered, defaced, destroyed or removed for the purpose of concealing or misrepresenting the identity of said item.

(c) A violation of any of the provisions of this section shall be a misdemeanor, punishable on conviction thereof by imprisonment not to exceed two years or by a fine not to exceed one thousand dollars ($1,000) or both, in the discretion of the court.

(d) This section shall not in any way affect the provisions of G.S. 20-108, G.S. 20-109(a) or G.S. 20-109(b)."

Sec. 2. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 504

CHAPTER 768

AN ACT TO AMEND CHAPTER 39 OF THE GENERAL STATUTES RELATING TO CONVEYANCES, TO ALLOW CONVEYANCES OF REAL PROPERTY TO OR BY A BUSINESS TRUST.

The General Assembly of North Carolina enacts:

Section 1. Chapter 39 of the General Statutes is amended by inserting immediately after G.S. 39-39 a new Article 8 to read as follows:

"ARTICLE 8.

"Business Trusts.

"§ 39-44. *Definition.*—The term 'business trust' whenever used or referred to in this Article shall mean any unincorporated association, including but not limited to a Massachusetts business trust, engaged in any business or trade under a written instrument or declaration of trust under which the beneficial interest therein is divided into shares represented by certificates or shares of beneficial interest.

"§ 39-45. *Authority to acquire and hold real estate.*—Business trusts are hereby authorized and empowered to acquire real estate and interests therein and to hold the same in their trust names and may sue and be sued in their trust names.

"§ 39-46. *Title vested; conveyance; probate.*—Where real estate has been or may be hereafter conveyed to a business trust in its trust name or in the names of its trustees in their capacity as trustees of such business trust, the said title shall vest in said business trust, and the said real estate and interests therein may be conveyed, encumbered or otherwise disposed of by said business trust in its trust name by an instrument signed by at least one of its trustees, its president, a vice-president or other duly authorized officer, and attested or countersigned by its secretary, assistant secretary or such other officer as is the custodian of its common seal, not acting in dual capacity, with its official seal affixed, the said conveyance to be proven and probated in the same manner as provided by law for conveyances by corporations. Any conveyance, encumbrance or other disposition thus made by any such business trust shall convey good and sufficient title to said real estate and interests therein in accordance with the provisions of said conveyance; provided, however, that with respect to any such conveyance, encumbrance or other disposition effected after the effective date of this section, there must be recorded in the county where the land lies a memorandum of the written instrument or declaration of trust referred to in G.S. 39-44. As a minimum such memorandum shall set forth the name, date and place of filing, if any, of such written instrument or declaration of trust, and the place where the written instrument or declaration of trust, and all amendments thereto, is kept and may be examined upon reasonable notice, which place need not be a public office.

"§ 39-47. *Prior deeds validated.*—All deeds, leases, mortgages, deeds of trust or other conveyances heretofore executed in conformity with this Article and which are proper in all other respects are declared to be sufficient to pass title to real estate held by such business trusts in accordance with the provisions of such instruments."

Sec. 2. This act shall become effective upon ratification, and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 904 CHAPTER 769

AN ACT TO PROVIDE FOR VIDEOTAPING OF DEPOSITIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 30(b)(4) is rewritten to read as follows:

"Testimony at a deposition may be taken without order of court by methods other than stenographic means, including videotape. If the testimony is to be taken by other than stenographic means, the notice shall state the method by which it shall be taken and upon request of any party five days prior to the taking of the deposition, the deposing party shall provide for the transcribing of the testimony taken by videotape and the filing of the transcript of such testimony with the clerk in the manner provided in paragraph f(1) of this rule."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 949 CHAPTER 770

AN ACT TO DEFINE THE RESPONSIBILITY FOR MAINTENANCE OF RESIDENTIAL RENTAL UNITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 42 of the General Statutes is hereby amended by adding thereto a new Article 5, to read as follows:

"ARTICLE 5.

"Residential Rental Agreements.

"§ 42-38. *Application.*—This Article determines the rights, obligations, and remedies under a rental agreement for a dwelling unit within this State.

"§ 42-39. *Exclusions.*—The provisions of this Article shall not apply to transient occupancy in a hotel, motel, or similar lodging subject to regulation by the State Board of Health.

"§ 42-40. *Definitions.*—For the purpose of this Article, the following definitions shall apply:

(a) 'Action' includes recoupment, counterclaim, defense, setoff, and any other proceeding including an action for possession.

(b) 'Premises' means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities normally held out for the use of residential tenants who are using the dwelling unit as their primary residence.

"§ 42-41. *Mutuality of obligations.*—The tenant's obligation to pay rent under the rental agreement or assignment and to comply with G.S. 42-43 and the landlord's obligation to comply with G.S. 42-42(a) shall be mutually dependent.

"§ 42-42. *Landlord to provide fit premises.*—(a) The landlord shall:

(1) comply with the current applicable building and housing codes, whether enacted before or after the effective date of this Article, to the extent required by the operation of such codes; no new requirement is imposed by this subdivision (a)(1) if a structure is exempt from a current building code;

(2) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(3) keep all common areas of the premises in safe condition; and

(4) maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by him provided that notification of needed repairs is made to the landlord in writing by the tenant except in emergency situations.

(b) The landlord is not released of his obligations under any part of this section by the tenant's explicit or implicit acceptance of the landlord's failure to provide premises complying with this section, whether done before the lease was made, when it was made, or after it was made, unless a governmental subdivision imposes an impediment to repair for a specific period of time not to exceed six months. Notwithstanding the provisions of this subsection, the landlord and tenant are not prohibited from making a subsequent written contract wherein the tenant agrees to perform specified work on the premises, provided that said contract is supported by adequate consideration other than the letting of the premises and is not made with the purpose or effect of evading the landlord's obligations under this Article.

"§ 42-43. *Tenant to maintain dwelling unit.*—(a) The tenant shall:

(1) keep that part of the premises which he occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises which he uses;

(2) dispose of all ashes, rubbish, garbage, and other waste in a clean and safe manner;

(3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(4) not deliberately or negligently destroy, deface, damage, or remove any part of the premises or knowingly permit any person to do so;

(5) comply with any and all obligations imposed upon the tenant by current applicable building and housing codes; and

(6) be responsible for all damage, defacement, or removal of any property inside a dwelling unit in his exclusive control unless said damage, defacement or removal was due to ordinary wear and tear, acts of the landlord or his agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural forces.

(b) The landlord shall notify the tenant in writing of any breaches of the tenant's obligations under this section except in emergency situations.

"§ 42-44. *General remedies and limitations.*—(a) Any right or obligation declared by this Chapter is enforceable by civil action, in addition to other remedies of law and in equity.

(b) No party shall be entitled to double damages in actions brought under this Article 5.

(c) The tenant may not unilaterally withhold rent prior to a judicial determination of a right to do so. The tenant shall be entitled to remain in possession of the premises pending appeal by continuing to pay the contract rent as it becomes due; provided that, in such case, the provisions of G.S. 42-34(b) shall not apply.

(d) A violation of this Article shall not constitute negligence per se."

Sec. 2. Nothing in this Article shall apply to any dwelling furnished without charge or rent.

Sec. 3. This act shall become effective on October 1, 1977, and applies to rental agreements entered into, extended, or renewed automatically or by the parties after October 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1119 CHAPTER 771

AN ACT TO REORGANIZE THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES AS THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT; TO CREATE A NORTH CAROLINA EMPLOYMENT AND TRAINING COUNCIL IN THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT; AND TO MAKE NECESSARY CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-276, as amended by Chapter 198 of the Session Laws of 1977, is rewritten to read as follows:

"§ 143B-276. *Department of Natural Resources and Community Development - duties.*—It shall be the duty of the department:

(1) to provide for the management and protection of the State's natural resources and environment;

(2) to promote and assist in the orderly development of North Carolina counties and communities; and

(3) to provide job training and promote employment for economically disadvantaged persons."

Sec. 2. G.S. 143B-277, as amended by Chapter 198 of the Session Laws of 1977, is rewritten to read as follows:

"§ 143B-277. *Department of Natural Resources and Community Development - functions.*—The Department of Natural Resources and Community Development, except as otherwise provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall include:

(a) all of the executive functions of the State in relation to the protection and management of the natural resources and environment of the State, the orderly development of North Carolina's counties and communities, the job training of economically disadvantaged persons and the promotion of employment for economically disadvantaged persons;

(b) all of the functions, powers, duties and obligations vested in the Department of Natural and Economic Resources and in any agency, commission, board, council or sub-part of the Department of Natural and Economic Resources all of which are hereby transferred to and vested in the Department of Natural Resources and Community Development; and

(c) all other functions, powers, duties and obligations as are conferred by this Chapter, delegated or assigned by the Governor or conferred by the Constitution and laws of this State."

Sec. 3. G.S. 143B-279 is hereby rewritten to read as follows:

"§ 143B-279. *Department of Natural Resources and Community Development - organization.*—The Department of Natural Resources and

Community Development shall be organized initially to include: (1) the Board of Natural Resources and Community Development, (2) the Wildlife Resources Commission, (3) the Environmental Management Commission, (4) the Marine Fisheries Commission, (5) the North Carolina Mining Commission, (6) the State Soil and Water Conservation Commission, (7) the Sedimentation Control Commission, (8) the Wastewater Treatment Plant Operators Certification Commission, (9) the Earth Resources Council, (10) the Community Development Council, (11) the Forestry Council, (12) the Parks and Recreation Council, (13) the North Carolina Zoological Park Council, (14) the Water Safety Council, (15) the Air Quality Council, (16) the Water Quality Council, (17) the North Carolina Employment and Training Council, (18) the Commercial and Sports Fisheries Committee, (19) the John H. Kerr Reservoir Committee, (20) the North Carolina Trails Committee, (21) the North Carolina Land Policy Council, and such divisions as may be established under the provisions of Article 1 of this Chapter."

Sec. 4. Wherever the words "Natural and Economic Resources" are used or appear in any existing statute or law of this State or in any statute or law enacted during the 1977 Session of the General Assembly in reference to the Department of Natural and Economic Resources or the Secretary of Natural and Economic Resources or the Board of Natural and Economic Resources, the same shall be deleted and the words "Natural Resources and Community Development" shall be substituted therefor.

Sec. 5. There is hereby enacted a new section G.S. 113-14.3 to read as follows:

"§ 113-14.3. *Publications.*—The Department of Natural Resources and Community Development shall publish, from time to time, reports and statements, with illustrations, maps, and other descriptions, which shall adequately set forth the natural and material resources of the State for the purpose of furnishing information to educate the people about the natural and material resources of the State."

——CREATION OF EMPLOYMENT AND TRAINING COUNCIL

Sec. 6. G.S. Chapter 143B is amended by adding to Article 7 thereof a new Part 24 as follows:

"PART 24.

"North Carolina Employment and Training Council.

"§ 143B-340. *North Carolina Employment and Training Council-creation, duties and responsibilities.*—There is hereby created a North Carolina Employment and Training Council, within the Department of Natural Resources and Community Development hereinafter referred to as 'the Council'.

The Council shall have the following duties and responsibilities:

(1) to advise the Governor on goals, objectives and policies regarding employment, training, and related programs, including community employment;

(2) to review the plans and programs of agencies operating federally funded programs related to employment and training and of other agencies providing employment and training-related services in the State;

(3) to make recommendations to the affected agencies, and to the Governor regarding the effective planning, delivery and coordination of employment, training and related services within the State; and

(4) to conduct studies, prepare reports and provide such advisory services as may be authorized or directed by the Governor or the Secretary of Natural Resources and Community Development.

"§ 143B-341. *North Carolina Employment and Training Council-structure, staff support, related councils.*—The North Carolina Employment and Training Council shall consist of 21 members, to be selected by the Governor in a manner consistent with related federal law and regulations and who shall serve at the pleasure of the Governor. The Governor, who shall not be a voting member, shall serve as the chairman. The Governor may appoint a vice-chairman who shall preside over meetings in his absence.

The Council shall meet at least three times annually at the call of the chairman or the Secretary of Natural Resources and Community Development. A majority of the Council shall constitute a quorum for the transaction of business. Members shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5, G.S. 138-6, or G.S. 120-3.1, as the case may be.

The Council may create such committees as may be necessary to the proper conduct of its business. The Governor may establish such additional advisory bodies, in accordance with existing law, related to employment and training as may be necessary and appropriate to the conduct of federally supported employment and training-related programs.

Clerical and other services required by the Council shall be supplied by the Secretary of Natural Resources and Community Development.

The Secretary of Natural Resources and Community Development or his designee shall serve as Secretary of the Council."

——CONFORMING CHANGE/DUTIES OF DEPARTMENT

Sec. 7. G.S. 113-3(a) as it appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting subdivisions (3) and (5) and by renumbering subdivision (4) as subdivision (3).

——COMMUNITY DEVELOPMENT COUNCIL/CONFORMING CHANGES AND RECONSTRUCTION

Sec. 8. Wherever the words "Community and Economic Development Council" are used or appear in any existing statute or law of the State the same shall be deleted and the words "Community Development Council" inserted in lieu thereof. G.S. 143B-305 as the same appears in the 1975 Cumulative Supplement to replace Volume 3C of the General Statutes is amended by rewriting subdivision (1) as follows:

"(1) To advise the Secretary of Natural Resources and Community Development with respect to promoting and assisting in the orderly development of North Carolina counties and communities."

Sec. 9. G.S. 143B-306, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is amended by rewriting the second sentence of the first paragraph thereof to read as follows:

"The composition of the Council shall be as follows: one member who shall be a local government official, one member who shall be the Executive Secretary of the League of Municipalities, one member who shall be the Executive Secretary of the County Commissioners Association, one member who shall represent industry, one member who shall represent labor, and six members at large."

Sec. 10. The terms of the current members of the Community Development Council, renamed by virtue of Chapter 198 of the 1977 Session Laws, the successor to the Community and Economic Development Council are terminated upon the effective date of this act.

——TRANSFER OF STATE ECONOMIC OPPORTUNITY OFFICE/CONFORMING CHANGES

Sec. 11. Article 6 of Chapter 108 of the General Statutes entitled "Economic Opportunity Agencies" is amended by deleting the words "Department of Human Resources" from that Article wherever the same shall appear and inserting in lieu thereof the words "Department of Natural Resources and Community Development". The words "the Department" as they appear in that Article shall be deemed to refer to the Department of Natural Resources and Community Development. The State Economic Opportunity Office, created pursuant to the authority granted in Article 6 of Chapter 108 of the General Statutes is hereby transferred to the Department of Natural Resources and Community Development by a Type I transfer, as defined in G.S. 143A-6.

——TRANSFER AIR TRANSPORTATION PROGRAM FROM DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT TO DEPARTMENT OF COMMERCE

Sec. 11.1. The Air Transportation Program is hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6. All transfers of personnel, equipment and appropriations shall be completed on or before July 1, 1977. The Secretary of Commerce shall have authority over such personnel, equipment and appropriations transferred by this section upon the effective date of this act.

——TRANSFER OF OFFICE OF EMPLOYMENT AND TRAINING

Sec. 12. The Office of Employment and Training which was transferred to the Department of Administration by Executive Order Number VIII, issued September 4, 1974, is hereby transferred to the Department of Natural Resources and Community Development by a Type I transfer, as defined by G.S. 143A-6.

——ABOLITION OF MANPOWER SERVICES COUNCIL AND MANPOWER PLANNING COUNCIL

Sec. 13. The North Carolina State Manpower Services Council, which was created by Executive Order Number XVII, issued May 12, 1976, and the North Carolina Balance of State Manpower Planning Council, which was created by Executive Order Number XVIII, issued May 12, 1976, are hereby abolished.

——REPEAL OF N. C. MANPOWER COUNCIL

Sec. 14. Part 11 of Article 9 of G.S. Chapter 143B, G.S. 143B-395 through G.S. 143B-396, is hereby repealed.

——TRANSFER OF LAND POLICY COUNCIL/CONFORMING CHANGES

Sec. 15. The Land Policy Act of 1974 (G.S. Chapter 113A, Article 9) is hereby amended by deleting all references to "Department of Administration" and inserting in lieu thereof references to "Department of Natural Resources and Community Development"; by deleting all references to "Secretary of Administration" and inserting in lieu thereof references to "Secretary of Natural Resources and Community Development"; and by deleting the words

"Office of State Planning" in G.S. 113A-153(b)(4) and inserting in lieu thereof the words "Department of Natural Resources and Community Development".

——GENERAL TRANSFERS/SALARY

Sec. 16. All records, personnel and property of the Department of Natural and Economic Resources and the unexpended balances of appropriations to the Department of Natural and Economic Resources are hereby transferred to the Department of Natural Resources and Community Development.

Sec. 17. All records, personnel, property, and unexpended balances of appropriations to any agency or subunit transferred by this act to the Department of Natural Resources and Community Development are hereby transferred in accordance with the provisions of this act to the Department of Natural Resources and Community Development.

Sec. 18. All transfers of personnel, equipment, appropriations and functions of an agency or division transferred by this act to the re-created and reconstituted Department of Natural Resources and Community Development shall be completed by July 1, 1977, but the Secretary of Natural Resources and Community Development shall have the authority over such personnel, equipment, appropriations and functions transferred by this act upon the effective date of this act.

Sec. 19. The salary of the Secretary of Natural Resources and Community Development shall be the same as the salary heretofore established by the General Assembly for the Secretary of Natural and Economic Resources.

Sec. 20. The Department of Natural Resources and Community Development is authorized to utilize funds awarded from the Contingency and Emergency Fund by the Council of State for the expenses of the North Carolina Employment and Training Council and the members and officers thereof as may be required for the remainder of the 1976-1977 fiscal year.

Sec. 21. All rules and regulations adopted by the Department of Natural and Economic Resources and any agency, division, board, commission or sub-part of said department transferred to the Department of Natural Resources and Community Development or any other agency, division, board, commission or sub-part transferred by this act to the Department of Natural Resources and Community Development shall continue in full force and effect as the rules and regulations of the Department of Natural Resources and Community Development as successor to the Department of Natural and Economic Resources until repealed, modified or amended as authorized by law.

——SEVERABILITY

Sec. 22. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions of this act or applications which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 23. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the Department of Natural Resources and Community Development, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to implement this act.

——EFFECTIVE DATE

Sec. 24. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1139 CHAPTER 772

AN ACT TO MAKE CERTAIN DANGEROUS ACTIVITIES AT ATHLETIC CONTESTS AND SPORTS EVENTS A MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to throw, drop, pour, release, discharge, expose or place in an area where an athletic contest or sporting event is taking place any substance or object that shall be likely to cause injury to persons participating in or attending such contests or events or to cause damage to animals, vehicles, equipment, devices, or other things used in connection with such contests or events. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars ($100.00) or imprisoned not more than 30 days, or both, in the discretion of the court.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1214 CHAPTER 773

AN ACT TO PROVIDE FOR THE ISSUANCE OF SPECIAL REGISTRATION PLATES FOR MEMBERS OF FIRE DEPARTMENTS AND RESCUE SQUADS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is hereby amended by adding a new section as follows:

"§ 20-81.7. *Special plates for members of fire departments and rescue squads.*—(a) Every owner of a private passenger motor vehicle or pickup truck not exceeding a gross weight of 4,000 pounds, who is an active regular or volunteer member of a fire department or rescue squad, upon payment of registration and licensing fees for such vehicle as required by law and an additional fee of ten dollars ($10.00), shall be issued license plates of the same form and character as other license plates now or hereinafter authorized by law to be issued upon such vehicles except that such license plates shall in addition bear on the face thereof the following words: either 'fireman'; 'rescue squad' or 'fireman-rescue squad'.

(b) Application for special registration plates pursuant to this section shall be made on forms provided by the Division of Motor Vehicles and shall contain proof satisfactory to the division that the applicant is an active regular or volunteer member of a fire department or rescue squad. Applications must be filed prior to 60 days before the day when regular registration plates for the year are made available to motor vehicle owners.

(c) The provisions of this section shall apply to calendar years beginning after December 31, 1977. The Division of Motor Vehicles is authorized to, and shall make such provisions prior to January 1, 1978, as are necessary for the issuance of the special plates provided for in this section for the year 1978. Registration

plates issued pursuant to this section shall be replaced annually to the same extent as regular registration plates are replaced."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1254 CHAPTER 774

AN ACT TO AMEND THE FEES FOR REGISTRATION OF LAND TITLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 43-5 is rewritten to read as follows:

"§ 43-5. *Fees of officers.*—The examiner hereinbefore provided for shall receive, as may be allowed by the clerk, a minimum fee of five dollars ($5.00) for such examination of each title of property assessed upon the tax books at the amount of five thousand dollars ($5,000) or less; for each additional thousand dollars ($1,000) of assessed value of property so examined he shall receive fifty cents (50¢); for examination outside of the county he shall receive a reasonable allowance. There shall be allowed to the register of deeds for copying the plot upon registration of titles book two dollars ($2.00) for the first page and one dollar ($1.00) for each succeeding page; for copying or recording new certificates under this Chapter, two dollars ($2.00) for the first page and one dollar ($1.00) for each succeeding page; for issuing the certificate and new certificates under this Chapter, fifty cents (50¢) for each; for noting the entries or memorandum required and for the entries noting the cancellation of mortgages and all other entries, if any, herein provided for, fifty cents (50¢) for each entry. The county or other surveyor employed under the provisions of this Chapter shall not be allowed to charge more than forty cents (40¢) per hour for his time actually employed in making the survey and the map, except by agreement with the petitioner, but he shall be allowed a minimum fee of two dollars ($2.00).

There shall be no other fees allowed of any nature except as herein provided, and the bond of the register, clerk and sheriff shall be liable in case of any mistake, malfeasance, or misfeasance as to the duties imposed upon them by this Chapter in as full a manner as such bond is now liable by law."

Sec. 2. All laws in conflict with this act are repealed.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1263 CHAPTER 775

AN ACT TO REVISE THE MUNICIPAL SERVICE DISTRICT ACT OF 1973.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-536 is amended by inserting in the second (and concluding) paragraph thereof, two new sentences, after the present first sentence of that paragraph, to read as follows:

"In addition, a downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city. A downtown

revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience."

Sec. 2. G.S. 160A-536 is further amended by adding a new third paragraph at the end thereof, to read as follows:

"A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this paragraph shall specify the purposes for which city moneys are to be used and shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period."

Sec. 3. Article 23 of Chapter 160A of the General Statutes is amended by inserting a new G.S. 160A-538.1 as follows:

"§ 160A-538.1. *Reduction of service districts.*—(a) Upon finding that there is no longer a need to include within a particular service district any certain tract or parcel of land, the city council may by resolution redefine a service district by removing therefrom any tract or parcel of land which it has determined need no longer be included in said district. The city council shall hold a public hearing before adopting a resolution removing any tract or parcel of land from a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing.

(b) The removal of any tract or parcel of land from any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the city council."

Sec. 4. Article 23 of Chapter 160A of the General Statutes is amended by inserting a new G.S. 160A-544 as follows:

"§ 160A-544. *Exclusion of personal property of public service corporations.*—There shall be excluded from any service district and the provisions of this Article shall not apply to the personal property of any public service corporation as defined in G.S. 160A-243(c); provided that this section shall not apply to any service district in existence on January 1, 1977."

Sec. 5. This act shall become effective upon ratification, but shall not apply to any district established prior to January 1, 1975.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1336 **CHAPTER 776**

AN ACT TO REPEAL G.S. 1-182 RELATING TO PUTTING JURY INSTRUCTIONS IN WRITING IN CRIMINAL ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-182 as the same appears in the 1969 Replacement to Volume 1A of the General Statutes is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1372 **CHAPTER 777**

AN ACT TO PROVIDE A DISMISSAL-WITH-LEAVE PROCEDURE FOR FUGITIVES WHO FLEE THE JURISDICTION OF THE COURT.

The General Assembly of North Carolina enacts:

Section 1. Article 50 of Chapter 15A of the General Statutes is amended to add a new section as follows:

"§ 15A-932. *Dismissal with leave when defendant fails to appear and cannot be readily found.*—(a) When a defendant fails to appear at any criminal proceeding at which his attendance is required and the prosecutor believes that the defendant cannot be readily found, the prosecutor may enter a dismissal with leave for nonappearance under this section.

(b) Dismissal with leave for nonappearance results in removal of the case from the docket of the court, but all process outstanding retains its validity, and all necessary actions to apprehend the defendant, investigate the case, or otherwise further its prosecution may be taken, including the issuance of nontestimonial identification orders, search warrants, new process, initiation of extradition proceedings, and the like.

(c) The prosecutor may enter the dismissal with leave for nonappearance orally in open court or by filing the dismissal in writing with the clerk. If the dismissal for nonappearance is entered orally, the clerk must note the nature of the dismissal in the case records.

(d) Upon apprehension of the defendant, or in the discretion of the prosecutor when he believes apprehension is imminent, the prosecutor may reinstitute the proceedings by filing written notice with the clerk."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1411 CHAPTER 778

AN ACT TO INCLUDE THE WORD "COMMITMENT" IN THE PREAMBLE TO G.S. 24-1.1 AND TO ADD SAID PREAMBLE TO G.S. 24-1.2.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1, as it appears in the 1975 Supplement to the General Statutes, is amended in line 2, after the word "advance" by adding the following: ", commitment for a loan" and is amended in line 22, after the word "advance" by adding the following: ", commitment for a loan".

Sec. 2. G.S. 24-1.2, as it appears in the 1975 Supplement to the General Statutes, is amended in line 1 by adding a preamble after the words "Installment rates." to read as follows: "Except as otherwise provided in this Chapter or other applicable law, the parties to a loan, purchase money loan, advance, commitment for a loan, or forbearance, may contract in writing for the payment of interest not in excess of:".

Sec. 3. G.S. 24-1.1, as it appears in the 1975 Supplement to the General Statutes, is amended at the end of the last line thereof by adding the following sentence: "Nothing in this section shall be construed to authorize the charging of interest on committed funds prior to the disbursement of said funds."

Sec. 4. G.S. 24-1.2, as it appears in the 1975 Supplement to the General Statutes, is amended by adding a new subsection "(e)" to read as follows: "Nothing in this section shall be construed to authorize the charging of interest on committed funds prior to the disbursement of said funds."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1468 CHAPTER 779

AN ACT TO STATE THE INTEREST RATE CEILING ON CERTAIN SMALL BUSINESS LOANS AND CERTAIN LOANS SECURED BY PROPERTY USED FOR NONPROFIT PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1 subsection (2) is rewritten to read as follows:

"(2) Ten percent (10%) per annum where the principal amount is one hundred thousand dollars ($100,000) or less and is a business property loan; or".

Sec. 2. Article 1 of Chapter 24 of the General Statutes is amended by adding a new section to be numbered G.S. 24-1.1B and to read as follows:

"§ 24-1.1B. *Contract rates on loans to nonprofit organizations.*—(a) Notwithstanding any other provision of this Chapter, except as hereinafter provided, the parties of a loan, purchase money loan, advance or forebearance may contract in writing for the payment of interest not in excess of nine percent (9%) per annum where the principal amount is one hundred thousand dollars ($100,000) or less and is secured by a mortgage or deed of trust on real property owned by a nonprofit organization, and used for religious, fraternal, educational, scientific, literary or charitable purposes; provided, however, that the provisions of G.S. 24-1.1A shall apply to loans to such nonprofit organizations where said loans fall within the definition of home loans as contained in G.S. 24-1.1A.

(b) A written statement that the borrower is a nonprofit organization and that the real property is used for religious, fraternal, educational, scientific, literary or charitable purposes, signed by the borrower and accepted in good faith by the lender shall be conclusive evidence of the nature of the organization and the purposes for which the real property is used. As used in this section, interest shall not be deemed in excess of the rates provided where interest is computed monthly on the outstanding principal balance that is collected not more than 31 days in advance of its due date."

Sec. 3. This act shall apply only to loans or loan commitments made after the effective date of this act.

Sec. 4. If any provision of this Chapter or its application to any person or circumstances held invalid, the remainder of this Chapter and its application to other persons or circumstances shall not be affected thereby.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 1512 CHAPTER 780

AN ACT TO CLARIFY CHAPTER 460 OF THE 1977 SESSION LAWS RELATING TO THE AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION TO CONDEMN REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 460 of the 1977 Session Laws of the General Assembly of North Carolina is hereby amended by renumbering Section 2 as Section 3 and adding a new Section 2 to read as follows:

"Sec. 2. This act shall not be construed to limit the authority of the Department of Transportation to exercise the power of eminent domain."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

S. B. 204 CHAPTER 781

AN ACT TO CREATE A NEW CHAPTER 78B CONCERNING TENDER OFFERS.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter of the General Statutes to be known as Chapter 78B is hereby created and shall read as follows:

"§ 78B-1. *Title.*—This Chapter shall be known and may be cited as the 'Tender Offer Disclosure Act'.

"§ 78B-2. *Definitions.*—As used in this Chapter, unless the context otherwise requires, the term:

(a) 'Administrator' means the Secretary of State.

(b) 'Affiliate' of a person means any person that, directly or indirectly, controls, is controlled by or is under common control with that person.

(c) 'Associate' of a person means

(i) any corporation or other organization of which such person is an officer, director or partner, or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities;

(ii) any person who is an officer, director, partner or managing agent of such person, or who is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities of such person;

(iii) any trust, guardianship, estate or similar entity in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity; or

(iv) any relative or spouse of such person or any relative of such spouse, if in each case such relative or spouse has the same home as such person.

(d) 'Business day' means any day other than a Saturday, Sunday, or legal holiday in North Carolina.

(e) 'Equity security' means any stock, bond or other obligation, the holder of which presently has the right to vote for the election of directors or other persons who serve in a similar capacity for the issuer; and it includes any security convertible into an equity security and any right, option or warrant to purchase an equity security.

(f) 'Executive officer' means a president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions.

(g) 'Exempt offer' means, with respect to any class of equity securities of the subject company,

(i) an offer made by the subject company or any issuer of equity securities to purchase its own equity securities or equity securities of its subsidiary;

(ii) offers to purchase equity securities from not more than 25 offerees within a twelve-month period;

(iii) an offer, if the acquisition of any equity security pursuant to the offer, together with all other acquisitions by the offeror and his associates of securities of the same class during the preceding 12 months, would not exceed two percent (2%) of the outstanding securities of such class;

(iv) an offer to purchase equity securities of a class not registered pursuant to Section 12 of the Securities Exchange Act of 1934;

(v) an offer that is subject to approval by the shareholders of the subject company at a meeting for which proxies have been solicited pursuant to Section 14 of the Securities Exchange Act of 1934; or

(vi) bids made by a registered broker-dealer in the ordinary course of his business and not with the purpose of changing the control of an issuer of equity securities.

(h) 'Offeree' means any person to whom a tender offer is made.

(i) 'Offeror' means a person who makes a tender offer, and includes two or more persons,

(i) whose tender offers are made jointly or in concert; or

(ii) who intend to exercise jointly or in concert any voting rights attaching to the equity securities for which a tender offer is made.

An 'offeror' does not include any bank, insurance company, broker-dealer or other person loaning funds to an offeror in the ordinary course of its business or any broker-dealer, attorney, accountant, consultant, employee or other person furnishing information or advice to or performing administrative or ministerial duties for an offeror in the ordinary course of his business.

(j) 'Person' means an individual, a partnership, a corporation, an unincorporated association, a trust, an estate or similar entity.

(k) 'Securities Act of 1933' and 'Securities Exchange Act of 1934' mean the federal statutes of those names as now or hereafter amended.

(l) 'Subject company' means a corporation or other issuer of securities whose equity securities are the subject of a tender offer and which

(i) is organized under the laws of and doing business in this State; or

(ii) has its principal place of business and substantial assets in this State.

(m) 'Subsidiary' of a person means a person more than fifty percent (50%) of whose outstanding securities representing the right, other than as effected by default, to vote for the election of directors, is owned by such person directly or indirectly.

(n) 'Tender offer' means an offer to purchase or invitation to tender, other than an exempt offer, made by an offeror, directly or indirectly, for such amount of any class of equity securities of a subject company that, together with equity securities of such class owned beneficially or of record by the offeror and his associates at the time of the offer or invitation, will in the aggregate exceed five percent (5%) of the outstanding equity securities of such class. A tender offer is 'made' when the offer or invitation is first published or sent or given to the offerees.

"§ 78B-3. *Mandatory provisions of and limitations on tender offers.*—The following provisions apply to every tender offer:

(a) Every tender offer shall provide that any equity securities of a subject company deposited or tendered pursuant to such tender offer may be withdrawn by or on behalf of any offeree at any time up to three business days before the termination of the effectiveness of the tender offer, and that any unpurchased equity securities may be so withdrawn at any time after 60 days from the date the tender offer is made. The period of effectiveness of any tender offer shall not be less than 21 days from the date the tender offer is made.

(b) Where a tender offer is made for less than all the equity securities of a class and a greater amount of equity securities is deposited or tendered pursuant thereto than the offeror is bound or willing to accept, the securities shall be accepted by the offeror as nearly as practicable pro rata, disregarding fractions, according to the amount of equity securities deposited or tendered by each offeree.

(c) Where an offeror revises the terms of a tender offer before the expiration thereof by increasing the consideration offered, the offeror shall pay the increased consideration to each offeree whose equity securities are purchased even if such securities were tendered and purchased before the revision of the terms of the tender offer.

"§ 78B-4. *Disclosure.*—(a) No offeror shall make a tender offer unless at least 30 days prior thereto he shall file with the administrator and deliver to the principal office of the subject company personally or by registered United States mail a statement containing all the information required by subsection (b) of this section.

(b) The statement to be filed with the administrator and delivered to the subject company pursuant to subsection (a) of this section shall contain the following information:

(i) the name of the subject company and its registered agent and registered office; the title of the equity securities for which the proposed tender offer will be made; and all of the terms and conditions of the proposed tender offer;

(ii) with respect to the offeror filing the statement:

a. the name and residence or business address of the offeror;

b. if the offeror is an individual, his citizenship, his principal occupations or employments at the time of the filing and during the past five years, giving the starting and ending dates of each and the name, principal business and address of any corporation or other organization in which such occupation or employment is or has been conducted;

c. if the offeror is not an individual, its form of organization; the date of its organization; the jurisdiction in which it is organized and the name of its registered agent and registered office in that jurisdiction, if any; a description of the amount and characteristics of all of its equity securities that are authorized and that are outstanding; the amount, maturity date and interest rate of all of its outstanding long-term debt; and the name, address, citizenship and principal occupation or employment during the past five years of each director and executive officer of the offeror, and each person owning beneficially, directly or indirectly, to the knowledge of the offeror twenty percent (20%) or more of any class of outstanding equity securities of the offeror, giving the starting and ending dates of each and the name, principal business and address of any business, corporation or other organization in which each such occupation or employment was carried on; and if the tender offer is for the purchase of less than all the outstanding equity securities issued by the subject company and is made by an offeror which is not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, copies of a balance sheet of the offeror as of the end of its last fiscal year and of its income statements for the three fiscal years preceding the offer.

d. whether or not, during the past five years, the offeror or any associate of the offeror has been convicted of, or has entered a plea of guilty or nolo contendere, in a criminal proceeding in any jurisdiction (excluding traffic violations or similar misdemeanors) and, if so, as to each proceeding the date of such conviction or plea, a description of the crime involved, the name and location of the court, and the penalty imposed or other disposition of the case; and

e. whether or not, during the past five years, the offeror or any associate of the offeror has been a party to a civil or criminal proceeding before a court or administrative or regulatory agency as a result of which the offeror or any associate of the offeror was or is subject to a judgment, decree or order enjoining future violations of, or prohibiting activities regulated by, federal or State securities or blue sky laws or finding liability under any such laws; and if so, a description of each such proceeding and the date and a summary of the terms of any such judgment, decree or order.

(iii) the source and amount of all the funds used or to be used in making the tender offer or purchasing equity securities pursuant thereto, and if any part of such funds is represented or is to be represented by funds borrowed for the purpose of making such offer or purchasing such securities a description of the transaction and the names of the parties

thereto, except that where the source of funds is a loan or loans made in the ordinary course of business by a bank or other financial institution regularly engaged in the business of making loans, it will be sufficient to identify such bank or financial institution and so to state;

(iv) a statement of the purpose or purposes of the tender offer and of any plans existing at the time such tender offer is made which the offeror, upon successful completion of the proposed tender offer, may have which related to or would result in:

a. any major change in the business or corporate structure of the subject company or any of its subsidiaries, including without limitation any merger, consolidation, liquidation or sale of all or any substantial portion of its or their assets;

b. any change in the board of directors or executive officers of the subject company, including without limitation any plans or proposals to change the number or terms of directors and the names, addresses, citizenship and principal occupation or employment of any proposed new members of the board of directors;

c. any material change in the capitalization of the subject company or any of its subsidiaries;

d. the payment or nonpayment of dividends by the subject company; or

e. the delisting of any equity securities of the subject company from any organized securities exchange, or the termination of the registration of any equity securities of the subject company with the Securities and Exchange Commission;

(v) the aggregate number of each class of equity securities of the subject company owned beneficially or of record, or subject to a right of acquisition, by each offeror and by each affiliate and associate of each offeror, giving the name and address of each such affiliate and associate, and any transactions in any such equity securities during the past 90 days by any such person;

(vi) information as to any contracts, arrangements or understandings, whether in writing or otherwise, between the offeror or any associate or affiliate of the offeror and any person, including without limitation any offeree or the subject company or any director or executive officer thereof, with respect to the subject company or any equity securities thereof, including without limitation the transfer or retention of such securities, joint ventures, option arrangements, puts or calls, loans, guaranties of loans, guaranties against loss or guaranties of profit, division of profits or losses, proxies, voting arrangement, or employment arrangements, naming the persons with whom such contracts, arrangements or understandings have been entered into, and giving the material details thereof; and

(vii) the identity of all persons employed, retained or to be compensated by the offeror, or by any person on his behalf, to make solicitations of or recommendations to equity security holders regarding the tender offer, and a brief description of the material terms of such employment, retainer or arrangement.

(c) There shall be delivered, as exhibits to the statement required by subsection (a) of this section, copies of the proposed tender offer and all advertisements and other written material relating thereto, including without

limitation solicitations or recommendations to holders of equity securities of the subject company with respect to such tender offer.

(d) In the case of an offer that is registered under Section 6 of the Securities Act of 1933, the offeror may, in lieu of the statement and exhibits required pursuant to subsections (a), (b) and (c) of this section, file with the administrator and deliver to the principal officer of the subject company in the manner set forth in subsection (a) of this section a copy of the form of prospectus filed under the Securities Act of 1933 with respect to such offer. If such prospectus is filed with the administrator pursuant to G.S. 78A-26, no additional copies shall be required to be filed with the administrator pursuant to this subsection.

(e) If before the tender offer is made any material amendment is made to the statement furnished or exhibits delivered pursuant to subsections (b) and (c) of this section, the tender offer shall not be made earlier than 10 days after the date of such amendment.

(f) If at any time or from time to time after a tender offer is made, the offeror revises the terms of such offer, the offeror shall file with the administrator and deliver to the principal office of the subject company personally or by registered United States mail a statement containing all of the terms and conditions of the revised tender offer and explaining in what respect the revised tender offer differs from the tender offer or offers previously made. Such statement shall be filed and delivered not less than six business days prior to the time such revised tender offer is made. All of the provisions of G.S. 78B-3 shall apply to such revised tender offer as if it were an original tender offer.

(g) A notice, in the form of a news release reasonably disseminated, advertisement, or other written communication directed to holders of equity securities of the subject company, which contains the following information shall be given concurrently with the filing required by subsection (a) of this section:

(i) the fact that a tender offer is proposed to be made and that a statement pursuant to subsection (a) of this section has been filed with the administrator and delivered to the subject company;

(ii) the amount of securities to be covered by the proposed tender offer and the date on which such offer is expected to be made;

(iii) the consideration proposed to be offered;

(iv) the identity of the offeror; and

(v) the purpose of the offer.

Any such notice shall not be deemed to constitute a tender offer and shall contain a statement that the tender offer shall be made only by a communication complying with the provisions of this Chapter.

(h) Whenever the subject company mails or otherwise delivers any written communication to the offerees with respect to the tender offer, the offeror, or any affiliate or associate of the offeror, it shall at the same time file with the administrator and deliver to the offeror personally or by registered United States mail copies of such written communications.

(i) The administrator shall maintain in his office copies of all documents and other material filed pursuant to this section for a period of three years from the date of filing, and thereafter all such documents and other material may be destroyed as the administrator deems appropriate. All documents and other material filed pursuant to this section shall be available for public inspection and copying.

"§ 78B-5. *Deceptive practices.*—It shall be unlawful for an offeror or subject company or any affiliate or associate of any offeror or the subject company or any person acting on its or their behalf to engage in any deceptive or manipulative acts or practices in connection with a tender offer. Deceptive and manipulative acts or practices include, without limitation, making any untrue statement of a material fact or omitting to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in connection with any tender offer.

"§ 78B-6. *Civil liabilities.*—(a) An offeror who

(i) makes a tender offer that does not comply in all material respects with the provisions of G.S. 78B-3, or

(ii) makes a tender offer without complying in all material respects with the provisions of G.S. 78B-4, or

(iii) makes a tender offer by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it was made, not misleading (the offeree not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and did not act in reckless disregard, of such untruth or omission,

shall be liable to any offeree whose equity securities are sold to the offeror pursuant to the tender offer and such offeree in a civil action shall be entitled (A) to recover such equity securities, together with all dividends, interest or other payments received thereon upon the tender of the consideration received for such securities from the offeror, or (B) if the offeror has transferred such equity securities to a third party, to recover such damages as the offeree shall have sustained as the proximate result of the conduct of the offeror which is in violation of this section.

(b) No civil action may be maintained under this section unless commenced before the expiration of two years after the act or transaction constituting the violation.

(c) The rights and remedies of this Chapter are in addition to any other rights or remedies that may exist at law or in equity.

"§ 78B-7. *Injunctions.*—(a) Whenever it appears to the administrator that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Chapter, he may in his discretion bring an action in any court of competent jurisdiction to enjoin such acts or practices and to enforce compliance with this Chapter or he may refer such evidence as is available concerning violations of this Chapter to the Attorney General, who may, with or without such a reference, bring such an action. A subject company and an offeror shall also have standing to bring an action in any court of competent jurisdiction to enjoin any person from any act or practice which constitutes a violation of this Chapter.

(b) Upon a proper showing, the court may grant a permanent or temporary injunction or restraining order or may order rescission of any sales or purchases of equity securities determined to be unlawful under this Chapter, or award such other relief as it may deem just and proper, including directing the subject company to refuse to transfer such securities on its books and to refuse to recognize any vote with respect to such securities.

"§ 78B-8. *Criminal penalties.*—(a) Any person who willfully violates this Chapter may be fined not more than five thousand dollars ($5,000) or

imprisoned for not more than two years or both. Each of the acts specified herein shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution of conviction for any other offense. No indictment or information may be returned under this Chapter more than two years after the alleged violation.

(b) The administrator may refer such evidence as is available concerning violations of this Chapter to the Attorney General or the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings under this Chapter.

(c) Nothing in this Chapter limits the power of the State to punish any person for any conduct which constitutes a crime under any other statute.

"§ 78B-9. *Service of process.*—(a) Any person, including any nonresident of this State, who engages in conduct that is subject to the provisions of this Chapter and who has not filed a consent to service of process under subsection (b) of this section, shall be deemed to have appointed the administrator to be his attorney to receive service of any lawful process in any suit, action or proceeding against him or his successor, executor or administrator which grows out of that conduct and which is brought under this Chapter, with the same force and validity as if served on him personally. Service may be had by leaving a copy of the process in the office of the administrator, and it is not effective unless (i) the plaintiff forthwith sends notice of the service and a copy of the process by registered United States mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and (ii) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return date of the process, if any, or within such further time as the court allows.

(b) Any person who engages in conduct that is subject to the provisions of this Chapter may appoint and maintain a registered agent, which agent may be either an individual resident of this State, or a domestic corporation, or a foreign corporation authorized to transact business in this State. Such appointment shall take place by filing in the office of the Secretary of State a statement setting forth the name and address of the person appointing, the registered agent and the name and address in this State of the registered agent. The registered agent appointed by any person pursuant to this section shall be an agent for said person upon whom any process, notice, or demand in any cause of action arising under this Chapter may be served.

(c) When process is served under subsection (a) of this section, the court shall order such continuance as may be necessary to afford the defendant reasonable opportunity to defend.

"§ 78B-10. *Application of Chapter.*—This Chapter shall not apply if the subject company is a public utility, public utility holding company, bank, bank holding company, insurance company, insurance holding company or savings and loan association subject to regulation by a federal or State agency and the tender offer is subject to approval by that agency.

"§ 78B-11. *Severability.*—If any provision or clause of this Chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable."

Sec. 2. G.S. 78A-56(a)(2) and G.S. 78A-56(c) are amended by deleting therefrom the words "and in the exercise of reasonable care could not have known" and by inserting in lieu thereof the words "and did not act in reckless disregard".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

S. B. 220 CHAPTER 782

AN ACT TO CLARIFY THE NORTH CAROLINA FOREIGN TRADE ZONE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55C-4, as the same appears in the 1976 Interim Supplement to the General Statutes of North Carolina, is hereby amended by deleting the last sentence thereof which reads as follows:

"Any other provision of law notwithstanding, property which is located in a foreign trade zone established pursuant to this Chapter shall be subject to ad valorem taxes."

Sec. 2. G.S. 105-275 is hereby amended by adding a new subsection (23) thereto to read as follows:

"Tangible personal property imported from outside the United States and held in a Foreign Trade Zone for the purpose of sale, manufacture, processing, assembly, grading, cleaning, mixing or display and tangible personal property produced in the United States and held in a Foreign Trade Zone for exportation, either in its original form or as altered by any of the above processes."

Sec. 3. This act shall become effective as of January 1, 1978.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

S. B. 695 CHAPTER 783

AN ACT TO PROVIDE FOR THE INTERCHANGE OF GOVERNMENTAL EMPLOYEES TO BE KNOWN AS THE NORTH CAROLINA INTERCHANGE OF GOVERNMENTAL EMPLOYEES ACT OF 1977.

Whereas, the General Assembly of North Carolina recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this State and that the interchange of personnel among governmental agencies and all levels of governments is significant in achieving an improvement in the quality of management; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 126 of the General Statutes of North Carolina is hereby amended by adding a new Article 10 thereto to read as follows:

"ARTICLE 10.

"Interchange of Governmental Employees.

"§ 126-50. *Short title.*—This Article shall be known and may be cited as the 'North Carolina Interchange of Governmental Employees Act of 1977'.

"§ 126-51. *Definitions.*—For purposes of this Article:

(1) 'Sending agency' means any division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government which, under this Article, sends any employee thereof to another governmental division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government.

(2) 'Receiving agency' means any division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government which, under this Article, receives an employee of another governmental division, department, agency, instrumentality, authority, or political subdivision of the federal government or of a state or local government.

(3) 'Assigned employee' means an employee of a sending agency who is assigned or detailed to a receiving agency as part of the employee's regular duties with the sending agency.

(4) 'Employee on leave' means an employee on leave of absence without pay from a sending agency who becomes an employee of a receiving agency while on leave from the sending agency.

"§ 126-52. *Authority to interchange employees.*—(a) Any division, department, agency, instrumentality, authority, or political subdivision of the State of North Carolina is authorized to participate in a program of interchange of employees with divisions, departments, agencies, instrumentalities, authorities, or political subdivisions of the federal government, of another state, or of this State, as a sending agency or a receiving agency.

(b) The period of individual assignment, detail, or leave of absence under an interchange program shall not exceed two years.

(c) The temporary assignment of the employee may be terminated by mutual agreement between the sending agency and the receiving agency.

(d) Elected officials may not participate in a program of interchange under this Article.

"§ 126-53. *Status of employees of sending agency.*—(a) Employees of a sending agency participating in an exchange of personnel authorized by G.S. 126-52 may be considered during such participation to be either assigned employees or employees on leave.

(b) Assigned employees shall be entitled to the same salary and employment benefits to which they would be entitled as employees of the sending agency and shall remain employees of the sending agency for all purposes unless otherwise provided in this Article or in a written agreement between the sending agency and the receiving agency.

(c) Employees on leave shall have the same rights, benefits and obligations as other State or local employees subject to this Chapter who are granted leaves of absences, unless otherwise provided in this Article, or in a written agreement between the sending agency and the receiving agency.

(d) When a division, department, agency, instrumentality, authority or political subdivision of the State of North Carolina acts as a sending agency, employees participating in an exchange of personnel authorized by G.S. 126-52, whether considered assigned employees or employees on leave, shall have the same rights, benefits and obligations to participate in and receive benefits, including death benefits, from any retirement system of which they are members as employees of the sending agency, whether they are members of the

Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, or other retirement system which has been or may be established by the State for public employees; provided, however, that the receiving agency agrees to and makes the employer contributions and deducts from the salary of the employee the employee contributions for continued membership in such retirement system. Provided, further, that if no contributions are paid into the appropriate retirement system during the period that the employee participates in the exchange of personnel authorized by this Article, such employee shall remain entitled to death benefits resulting from his death during the period of the exchange. Provided, that where duplicate benefits would otherwise be payable on account of disability or death, the employee or his estate shall elect, within one year of the date of disability or death, which benefits to receive.

"§ 126-54. *Travel expenses of employees from this State.*—A sending agency in this State shall not pay the travel expenses of its assigned or on leave employees and shall not pay the travel expenses of such employees incurred in the course of performing work for the receiving agency. Such expenses shall be borne by the receiving agency.

"§ 126-55. *Status of employees of other governments.*—(a) When a division, department, agency, instrumentality, authority or political subdivision of the State of North Carolina acts as a receiving agency, assigned employees of the sending agency remain the employees of the sending agency and continue to receive the employment benefits of the sending agency unless otherwise specified in a written agreement between the sending agency and the receiving agency.

(b) When a division, department, agency, instrumentality, authority or political subdivision of this State acts as a receiving agency, employees on leave from the sending agency will receive appointments as employees with the receiving agency and will be entitled to the same employment benefits as other employees of the receiving agency unless otherwise specified in a written agreement between the sending agency and the receiving agency. Such appointments may be made without regard to any rules or regulations of the receiving agency regarding the selection of employees; but all rules of the State Personnel Act shall apply to State employees.

"§ 126-56. *Travel expenses of employees of other governments.*—A receiving agency in the State of North Carolina may, in accordance with its travel regulations and travel regulations by law, pay the travel expenses incurred in the course of an assigned employee's duties or incurred in the course of the duties of an employee on leave with the receiving agency on the same basis as the travel expenses of regular employees are paid.

"§ 126-57. *Administration.*—The State Personnel Commission and any State division, department, agency, instrumentality, authority or political subdivision participating in an interchange of employees program may promulgate rules or regulations necessary for the administration of such program, so long as such rules or regulations do not conflict with the provisions of this Article or any other provision of law."

Sec. 2. Chapter 128 of the General Statutes is hereby amended by adding a new subdivision 6 to Section 128-24, to read as follows:

"(6) Employees of a sending agency participating in an intergovernmental exchange of personnel under the provisions of Article 10 of Chapter 126 shall remain members entitled to all benefits of the system provided that the requirements of Article 10 of Chapter 126 are met; provided further, that a member may retain membership status while serving as an assigned employee or employee on leave under the provisions of Article 10 of Chapter 126 for purposes of receiving the death benefit regardless of whether he and his employer are contributing to his account during the exchange period except that no duplicate benefits shall be paid."

Sec. 3. Chapter 135 of the General Statutes is hereby amended by adding to Section 135-3 a new subdivision (9) to read as follows:

"(9) Members who are participating in an intergovernmental exchange of personnel under the provisions of Article 10 of Chapter 126 may retain their membership status and receive all benefits provided by this Chapter during the period of the exchange provided the requirements of Article 10 of Chapter 126 are met; provided further, that a member participating in an intergovernmental exchange of personnel under Article 10 of Chapter 126 shall, notwithstanding whether he and his employer are making contributions to the member's account during the exchange period, be entitled to the death benefit if he otherwise qualifies under the provisions of this Article and provided further that no duplicate benefits shall be paid."

Sec. 4. Article 12 of Chapter 143 of the General Statutes is hereby amended by adding to subsection 143-166 (m) a new sentence, to follow the sentence ending "civil processes." and to read as follows: "The term law enforcement officers, for purposes of participating in this fund and for receiving benefits under this section, includes otherwise qualified persons who are members of the fund and who are participating in an intergovernmental exchange of personnel under Article 10 of Chapter 126 provided the requirements of Article 10 of Chapter 126 are met; provided further, that a member participating in an intergovernmental exchange of personnel under Article 10 of Chapter 126 shall be entitled to any death benefits to which he would otherwise be entitled regardless of whether he and his employers are making contributions to the member's account during the exchange period except that no duplicate benefits shall be paid."

Sec. 5. Severability. In the event any section, subsection, sentence, clause or phrase of this act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this act, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

S. B. 685

CHAPTER 784

AN ACT TO AMEND THE HOUSING AUTHORITIES LAW, ARTICLE 1 OF CHAPTER 157 OF THE GENERAL STATUTES, WITH RESPECT TO G.S. 157-9, G.S. 157-15, G.S. 157-17, G.S. 157-25 AND G.S. 157-26 THEREOF.

The General Assembly of North Carolina enacts:

Section 1. The fifth sentence of the second paragraph of G.S. 157-9 is hereby rewritten to read as follows:

"Any corporate agent, (i) all of the stock of which shall be owned by the authority or its nominee or nominees or (ii) the board of directors of which shall be elected or appointed by the authority or is composed of the commissioners of the authority or (iii) which is otherwise subject to the control of the authority or the governmental entity which created the authority, may to the extent permitted by law exercise any of the powers conferred upon the authority herein."

Sec. 2. The first sentence of the second paragraph of G.S. 157-15 is hereby rewritten to read as follows:

"The bonds may be sold at public or private sale; provided, however, that no public sale shall be held unless notice thereof is published once at least 10 days prior to such sale in a newspaper having a general circulation in the city in which the authority is located and in a financial newspaper published in the City of New York, New York, or in the City of Chicago, Illinois."

Sec. 3. G.S. 157-17 is hereby rewritten to read as follows:

"§ 157-17. *Power to mortgage when project financed with governmental aid.*—In connection with the interim or permanent financing of any project to be permanently financed in whole or in part by a government, or the permanent financing of which is to be secured by a pledge of a government commitment for rental assistance payments, the authority shall also have the power, subject to the consent or approval of any government providing such financing or making such commitment for rental assistance payments, to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, and thereby:

(1) To vest in a government the right, upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, so long as a government shall be the holder of any of the bonds secured by such mortgage.

(2) To vest in a trustee or trustees the right, upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings.

(3) To vest in other obligees the right to foreclose such mortgage by judicial proceedings.

(4) To vest in an obligee, including a government, the right in foreclosing any mortgage as aforesaid, to foreclose such mortgage as to all or such part or parts of the property covered thereby as such obligee (in its absolute discretion) shall elect; the institution, prosecution and conclusion of any such foreclosure proceedings and/or the sale of any such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts

of the mortgaged property not included in such proceedings or not sold as aforesaid."

Sec. 4. G.S. 157-25 is hereby rewritten by adding the words "or by rental assistance payments under any other section of said act, as amended," following the words "as amended," in the sixteenth line of the first sentence thereof.

Sec. 5. The third sentence of G.S. 157-26 is hereby rewritten to read as follows:

"Bonds, notes, debentures and other evidences of indebtedness of an authority (including any corporate agent thereof authorized by this Article to exercise the powers of the authority) heretofore or hereafter issued are declared to be issued for a public purpose and to be public instrumentalities and, together with the interest thereon, shall be exempt from taxes."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

S. B. 906 CHAPTER 785

AN ACT TO AMEND G.S. 20-42 PERTAINING TO ACKNOWLEDGEMENTS OF SIGNATURES BY EMPLOYEES OF THE DIVISION OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-42(a), as same appears in the 1975 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes, is hereby amended by striking the figure "$.50" appearing at the end of line 6 and inserting in lieu thereof the figure "$1.00"; by striking the figure "$.75" appearing at the end of line 7 and inserting in lieu thereof the figure "$1.50"; and by striking the figure "$1.00" appearing at the end of line 8 and inserting in lieu thereof the figure "$2.00".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. B. 514 CHAPTER 786

AN ACT TO AMEND THE CHILD ABUSE AND NEGLECT LAWS TO PROVIDE FOR MANDATORY NOTIFICATION OF REPORTER AFTER INVESTIGATION, PROFESSIONAL REPORTING RESPONSIBILITY FOR STAFF OF DAY-CARE CENTERS, COURT REVIEW OF DECISIONS TO RETURN CHILDREN TO PARENTS, AND FOR A STATEWIDE PROTECTIVE SERVICES PLAN DEVELOPED BY THE DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-117(5) is hereby amended by inserting the words "or the director or staff person of a licensed day-care center" at the end of the sentence.

Sec. 2. G.S. 110-119(1) is hereby amended to read as follows:

"Unless he for good cause determines such notification to be harmful, the director shall notify the person making the report of knowledge or suspicion that a child is abused or neglected within two working days after initiating the

investigation that (1) there is no finding of abuse or neglect or that (2) the department is taking action to protect the welfare of the child; provided, no notification is required when said person fails to identify himself or herself to the director."

Sec. 3. G.S. 7A-286(2) is hereby amended by inserting the following paragraph at the end thereof:

"In any case where the court removes custody from a parent or person standing *in loco parentis* because of abuse or neglect, the child shall not be returned to said parent or person standing *in loco parentis* unless the court finds sufficient facts to show that the child will receive proper care and supervision."

Sec. 4. Chapter 110 of the General Statutes is amended by adding a new G.S. 110-123, to read as follows:

"§ 110-123. *Protective Services Plan.*—The Department of Human Resources shall submit to the Governor and General Assembly by January 16, 1979, the department's plan pursuant to prevention, identification and treatment of child abuse and neglect. The plan shall include a full assessment of the scope, nature and extent of the problem, goals and objectives, program and administrative strategies, existing and needed resources, and proposals for any statutory amendments to Chapter 110, Article 8, 'Child Abuse and Neglect'. The department's plan shall be developed in conjunction with appropriate divisions within the department, other State agencies and organizations outside the department and with appropriate local community agencies, organizations and citizens concerned with child abuse and neglect. The plan shall delineate the role and responsibility of departmental staff, other professional and lay persons in implementation of the department's plan."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 718 CHAPTER 787

AN ACT TO INSURE THE SPEEDY TRIAL OF PERSONS CHARGED WITH CRIMINAL OFFENSES.

The General Assembly of North Carolina enacts:

Section 1. Article 35 of Chapter 15A of the General Statutes is rewritten to read as follows:

"ARTICLE 35.

"Speedy Trial.

"§ 15A-701. *Time limits and exclusions.*—(a) The trial of the defendant charged with a criminal offense shall begin within the time limits specified below:

(1) within 90 days from the date the defendant is arrested, served with criminal process, waives an indictment or is notified pursuant to G.S. 15A-630 that an indictment has been filed with the superior court against him, whichever occurs last;

(2) within 90 days of the giving of notice of appeal in a misdemeanor case for a trial *de novo* in the superior court;

(3) when a charge is dismissed, other than under G.S. 15A-703, and the defendant is afterwards charged with the same offense or an offense based on the same act or transaction or on the same series of acts or

transactions connected together or constituting parts of a single scheme or plan, then within 90 days from the date that the defendant was arrested, served with criminal process, waived an indictment, or was notified pursuant to G.S. 15A-630 that an indictment has been filed with the superior court against him, whichever occurs last, for the original charge;

(4) when the defendant is to be tried again following a declaration by the trial judge of a mistrial, then within 60 days of that declaration; or

(5) within 60 days from the date the action occasioning the new trial becomes final when the defendant is to be tried again following an appeal or collateral attack.

(a1) Notwithstanding the provisions of G.S. 15A-701(a) the trial of a defendant charged with a criminal offense who is arrested, served with criminal process, waives an indictment or is notified pursuant to G.S. 15A-630 that an indictment has been filed against him, on or after October 1, 1978, and before October 1, 1980, shall begin within the time limits specified below:

(1) within 120 days from the date the defendant is arrested, served with criminal process, waives an indictment, or is notified pursuant to G.S. 15A-630 that an indictment has been filed against him, whichever occurs last;

(2) within 120 days of the giving of notice of appeal in a misdemeanor case for a trial *de novo* in the superior court;

(3) when a charge is dismissed, other than under G.S. 15A-703, and the defendant is afterwards charged with the same offense or an offense based on the same act or transaction or on the same series of acts or transactions connected together or constituting parts of a single scheme or plan, then within 120 days from the date that the defendant was arrested, served with criminal process, waived an indictment, or was notified pursuant to G.S. 15A-630 that an indictment has been filed with the superior court against him, whichever occurs last, for the original charge;

(4) when the defendant is to be tried again following a declaration by the trial judge of a mistrial, then within 120 days of that declaration; or

(5) within 120 days from the date the action occasioning the new trial becomes final when the defendant is to be tried again following an appeal or collateral attack.

(b) The following periods shall be excluded in computing the time within which the trial of a criminal offense must begin:

(1) any period of delay resulting from other proceedings concerning the defendant including, but not limited to, delays resulting from

a. a mental or physical examination of the defendant, or a hearing on his mental or physical incapacity;

b. trials with respect to other charges against the defendant;

c. interlocutory appeals; or

d. hearings on pretrial motions or the granting or denial of such motions;

(2) any period of delay during which the prosecution is deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct;

(3) any period of delay resulting from the absence or unavailability of the defendant or an essential witness for the defendant or the State. For the purpose of this subdivision, a defendant or an essential witness shall be considered

a. absent when his whereabouts are unknown and he is attempting to avoid apprehension or prosecution or when his whereabouts cannot be determined by due diligence; and

b. unavailable when his whereabouts are known but his presence for testifying at the trial cannot be obtained by due diligence or he resists appearing at or being returned for trial;

(4) any period of delay resulting from the fact that the defendant is mentally incapacitated or physically unable to stand trial;

(5) when a charge is dismissed by the prosecutor under the authority of G.S. 15A-931 and afterwards a new indictment or information is filed against the same defendant or the same defendant is arrested or served with criminal process for the same offense, or an offense based on the same act or transaction or on the same series of acts or transactions connected together or constituting parts of a single scheme or plan, any period of delay from the date the initial charge was dismissed to the date the time limits for trial under this section would have commenced to run as to the subsequent charge;

(6) a period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted;

(7) any period of delay resulting from a continuance granted by any judge if the judge granting the continuance finds that the ends of justice served by granting the continuance outweigh the best interests of the public and the defendant in a speedy trial and sets forth in writing in the record of the case the reasons for so finding.

The factors, among others, which a judge shall consider in determining whether to grant a continuance are as follows:

a. whether the failure to grant a continuance would be likely to result in a miscarriage of justice;

b. whether the case taken as a whole is so unusual and so complex, due to the number of defendants or the nature of the prosecution or otherwise, that it is unreasonable to expect adequate preparation within the time limits established by this section; and

c. whether delay after the grand jury proceedings have begun, in a case where arrest precedes indictment, is caused by the unusual complexity of the factual determination to be made by the grand jury or by events beyond the control of the court or the State;

(8) any period of delay occasioned by the venue of the defendant's case being within a county where due to limited number of court sessions scheduled for the county, the time limitations of this section cannot reasonably be met;

(9) a period of delay resulting from the defendant's being in the custody of a penal or other institution of a jurisdiction other than the jurisdiction in which the criminal offense is to be tried;

(10) a period of delay when the defendant or his attorney has an obligation of service to the State of North Carolina or to the United States

Government and the court, with the consent of both the defendant and the State, continues the case for a period of time consistent with that obligation.

(c) If trial does not begin within the time limitations specified in this section because the defendant entered a plea of guilty or no contest which was subsequently withdrawn to any or all charges, the applicable period of time limits as specified in this section shall begin to run on the day the order permitting withdrawal of the plea of guilty or no contest becomes final.

"§ 15A-702. *Counties with limited court sessions.*—(a) If the venue of the defendant's case lies within a county where, due to the limited number of court sessions scheduled for the county, the applicable time limit specified by G.S. 15A-701 has not been met, the defendant may file a motion for prompt trial with (1) a superior court judge presiding over a mixed or criminal session within the same judicial district where the defendant is charged with an offense within the original jurisdiction of the superior court or with a misdemeanor docketed in the superior court for trial *de novo*; or (2) a district court judge presiding in the county in which the venue of the case lies, or in the event that there is no district court judge presiding in that county, in the judicial district embracing the county in which the venue lies where the defendant is charged with a misdemeanor pending in district court.

(b) The judge with whom the petition for prompt trial is filed may order the defendant's case be brought to trial within not less than 30 days.

(c) A defendant who files a petition for prompt trial under this section accepts venue anywhere within the judicial district and may not continue or delay his case except on the basis of matters which arise after he files the petition and which he or his counsel could not have reasonably anticipated. The defendant may withdraw the petition for prompt trial only on order of the court, for good cause shown or with the consent of the prosecutor.

"§ 15A-703. *Sanctions.*—If a defendant is not brought to trial within the time limits required by G.S. 15A-701 or within the time prescribed by the judge in his order for prompt trial under G.S. 15A-702(b), the charge shall be dismissed on motion of the defendant. The defendant shall have the burden of proof of supporting that motion but the State shall have the burden of going forward with evidence in connection with excluding periods from computation of time in determining whether or not the time limitations under this Article have been complied with. In determining whether to order the charge's dismissal with or without prejudice, the court shall consider, among other matters, each of the following factors: the seriousness of the offense; the facts and circumstances of the case which led to the dismissal; the impact of a re-prosecution on the administration of this Article and on the administration of justice. Failure of the defendant to move for dismissal prior to trial or entry of the plea of guilty or no contest shall constitute a waiver of the right to dismissal under this section. A dismissal with prejudice shall bar further prosecution of the defendant for the same offense or an offense based on the same act or transaction or on the same series of acts or transactions connected together or constituting parts of a single scheme or plan; a dismissal without prejudice shall not bar further prosecution.

"§ 15A-704. *No bar to claim of denial of speedy trial.*—No provision of this Article shall be interpreted as a bar to any claim of denial of a speedy trial as required by the Sixth Amendment to the Constitution of the United States."

Sec. 2. This act shall apply to any person who is arrested, served with criminal process, waives an indictment, or is notified pursuant to G.S. 15A-630 that an indictment has been filed with the superior court against him, on or after October 1, 1978.

Sec. 3. Subsection (a1) of G.S. 15A-701 is repealed effective July 1, 1980.

Sec. 4. This act shall become effective October 1, 1978.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 878

CHAPTER 788

AN ACT TO INCREASE REPRESENTATION ON THE NORTH CAROLINA BOARD OF BOILER AND PRESSURE VESSELS RULES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-69.13(a), as the same appears in the 1975 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina, is hereby amended to read as follows:

"§ 95-69.13. *Board of Boiler and Pressure Vessels Rules created; appointment, terms, compensation and duties.*—(a) There is hereby created the North Carolina Board of Boiler and Pressure Vessels Rules consisting of nine members appointed by the commissioner, of which three shall be appointed for a term of one year, three for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. At the expiration of their respective terms of office, their successors shall be appointed for terms of five years each. Of these nine appointed members, one shall be a representative of the owners and users of steam boilers within this State, one a representative of boiler manufacturers within this State, one a representative of boilermakers within this State who has had not less than five years' practical experience as a boilermaker, one shall be a representative of the owners or users of pressure vessels within the State, one shall be a representative of the pressure vessel manufacturers within the State, one a representative of a boiler inspection and insurance company authorized to insure boilers and pressure vessels within the State, one a representative of the operating steam engineers in this State, one a contractor holding a Group 1 North Carolina Heating License, and one a mechanical engineer on the faculty of a recognized engineering college or a licensed professional engineer having boiler and pressure vessel experience. The Commissioner of Labor shall annually designate one member to serve as chairman."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Labor to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 948 **CHAPTER 789**

AN ACT TO CLARIFY THE RETAIL INSTALLMENT SALES ACT REGARDING SECURITY INTERESTS IN PROPERTY SOLD UNDER REVOLVING CHARGE ACCOUNT CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-23 is hereby amended by adding the following new subdivision:

"(d) The provisions of G.S. 24-11(a), limiting the taking of a security interest in property under an open end credit or similar plan, shall not apply to revolving charge account contracts regulated by this Chapter; provided, however, the application of payments rule set out in G.S. 25A-27 shall apply to such contracts; provided further, that in any action initiated by the seller for the possession of such property, a judgment for the possession thereof shall be restricted to commercial units (as defined in G.S. 25-2-105(6)) for which the cash price was one hundred dollars ($100.00) or more."

Sec. 2. This act is intended to clarify existing law and shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 974 **CHAPTER 790**

AN ACT TO AMEND SECTION 135-4 OF THE GENERAL STATUTES RELATING TO CREDITABLE SERVICE IN THE RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4, as the same appears in the 1974 Replacement Volume 3B of the General Statutes and in the 1975 Cumulative Supplement Volume 3B of the General Statutes, and with the change as reflected in the 1976 Interim Supplement to the General Statutes of North Carolina, is amended by adding a new subsection "(m)" to read as follows:

"(m) Wherever the terminology 'out-of-State service', is used in this section, that terminology shall be interpreted to include the United States Public Health Service and time spent in the Merchant Marines while in the United States Naval Reserve."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 995 **CHAPTER 791**

AN ACT TO SET THE SPEED LIMIT FOR BUSES TRANSPORTING CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-218, as it appears in 1975 Replacement Volume 1C of the General Statutes, is amended by designating the first paragraph as subsection (a) and repealing the remainder of the section.

Sec. 2. G.S. 20-218 is further amended by adding new subsections (b) and (c) to read as follows:

"(b) It shall be unlawful for any person to operate or drive a school bus loaded with children over the public roads of North Carolina at a greater rate of speed than 35 miles per hour, with the following exceptions:

(1) For school activity buses which are painted a different color from regular school buses and which are being used for transportation of students or others to or from places for participation in events other than regular classroom work, it shall be unlawful to operate such a school activity bus at a greater rate of speed than 45 miles per hour.

(2) For school buses or special buses with a capacity of 16 pupils or less that are used to transport students who are children with special needs, it shall be unlawful to operate the buses at a greater rate of speed than 45 miles per hour.

(c) Any person violating this section shall, upon conviction, be fined not more than fifty dollars ($50.00) or imprisoned for not more than 30 days."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1003 **CHAPTER 792**

AN ACT TO PROMOTE AND ENCOURAGE THE CONSERVATION OF ENERGY BY PROVIDING A TAX CREDIT FOR INSTALLATION OF SOLAR HOT WATER, HEATING AND COOLING SYSTEMS, BY PROVIDING A TAX CREDIT FOR INSTALLATION OF HOME INSULATION, STORM WINDOWS AND STORM DOORS, BY MANAGING AND CONTROLLING ENERGY USE BY IMPROVED ENFORCEMENT OF THE STATE BUILDING CODE INSULATION REQUIREMENTS, BY REPORTING OF AVAILABLE PETROLEUM SUPPLIES, AND BY PROHIBITING THE USE OF MASTER METERS FOR ELECTRICITY AND NATURAL GAS IN NEW MULTI-UNIT RESIDENTIAL DWELLING UNITS.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known and may be cited as the Energy Conservation Act of 1977.

Sec. 2. The economy of North Carolina and the welfare of its citizens have been jeopardized in the past by shortages of natural gas, petroleum, propane and electric power. The shortage of energy supplies available to North Carolina will continue during the coming decade unless measures are established to conserve the energy available for the economy and the citizens of North Carolina. It is therefore declared to be the policy of the State of North

Carolina to encourage and promote the conservation of energy in all forms and to establish requirements and enforcement measures for mandatory conservation of energy in North Carolina, in order to prevent or reduce an adverse impact upon the economy of this State and in order to prevent interruption of employment of the citizens of this State in commerce and industry and in order to prevent injury to their health and welfare due to shortage and high cost of energy in their homes.

Sec. 3. Article 4 of Chapter 105 of the North Carolina General Statutes is hereby amended by adding thereto a new section, G.S. 105-151.2, to read as follows:

"§ 105-151.2. *Credit against personal income tax for solar hot water, heating and cooling.*—(a) Any person (to include partnerships) who constructs or installs a solar hot water, heating or cooling system in any residence or other building in North Carolina shall be allowed as a credit against the tax imposed by this division, an amount equal to twenty-five percent (25%) of the installation and equipment cost of the solar hot water, heating or cooling equipment; provided, that credit allowed under this section shall not exceed one thousand dollars ($1,000) on any single building or for each family dwelling unit of a multi-dwelling building which is individually metered for electric power or natural gas or with separate furnace for oil heat paid for by the occupant; provided further, that in order to secure the credit allowed by this section the taxpayer must own or control the building at the time the solar hot water, heating or cooling system is installed and payment in part or in total for such equipment and installation must be made by the taxpayer during the tax year for which the credit is claimed; and the amount of credit allowed for any one income year shall be limited to the amount of payment for such equipment made during the income year for which the credit is claimed and provided further, that if the credit allowed by this section exceeds the taxes imposed by this division reduced by all other credits allowed by the provisions of this division, such excess shall be allowed against the taxes imposed by this division for the next three succeeding years.

(b) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, each spouse may claim one half of the credit allowed by this section or one spouse may claim the entire credit allowed by this section by agreement with the other spouse, provided both spouses were living together at the end of the taxable year and file their separate returns for the taxable year on the combined form. Where only one spouse is required to file a North Carolina income tax return, such spouse may claim the credit allowed by this section.

(c) For the purpose of this section, the term 'solar hot water, heating and cooling equipment' means any hot water, heating, cooling or heating and cooling equipment which meets the definitive performance criteria prescribed pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C.A. §§ 5501, et seq.), and any amendments thereto, or any other performance criteria approved by the Secretary of Revenue provided that such criteria shall be published by the Secretary of Revenue."

Sec. 4. Article 4 of Chapter 105 of the North Carolina General Statutes is hereby amended by adding thereto a new section, G.S. 105-130.23, to read as follows:

"§ 105-130.23. *Credit against corporate income tax for solar hot water, heating and cooling.*—(a) Any corporation which constructs or installs solar hot water, heating or cooling equipment in buildings to include residential buildings used or sold by the corporation for commercial or business purposes in North Carolina shall be allowed as a credit against the taxes imposed by this division, an amount equal to twenty-five percent (25%) of the installation and equipment cost of the solar hot water, heating or cooling equipment; provided, that credit allowed under this section shall not exceed one thousand dollars ($1,000) for any single building or each family dwelling unit of a multi-dwelling building which is individually metered for electric power or natural gas or with separate furnace for oil heat paid for by the occupant; provided further, that in order to secure the credit allowed by this section, the taxpayer must own or control the building at the time the solar hot water, heating or cooling system is installed and payment (in part or total) for such equipment and installation must be made by the taxpayer during the tax year for which the credit is claimed; and the amount of credit allowed for any one income year shall be limited to the amount of payment for such equipment made during the income year for which the credit is claimed and provided further, that if the credit allowed by this section exceeds the taxes imposed by this division reduced by all other credits allowed by the provisions of this division, such excess shall be allowed against the taxes imposed by this division for the next three succeeding years.

(b) For the purpose of this section, the term 'solar hot water, heating and cooling equipment' means any hot water, heating, cooling or heating and cooling equipment which meets the definitive performance criteria prescribed pursuant to the provisions of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C.A. §§ 5501, et seq.), and any amendments thereto, or any other performance criteria established by the Secretary of Revenue."

Sec. 5. Article 4 of Chapter 105 of the North Carolina General Statutes is hereby amended by adding thereto a new section, G.S. 105-151.3, to read as follows:

"§ 105-151.3. *Credit against personal income tax for home insulation, storm windows or storm doors.*—(a) During the period from January 1, 1977, through December 31, 1978, any person (to include partnerships) who installs new or additional insulation, storm windows or storm doors (to include thermal pane windows and doors) in any building located in North Carolina which was constructed and occupied prior to January 1, 1977, shall be allowed as a credit against the taxes imposed by this division, an amount equal to twenty-five percent (25%) of the cost of such insulation, storm windows or storm doors; provided, that credit allowed under this section shall not exceed one hundred dollars ($100.00) on any single building or for each family dwelling unit of a multi-dwelling building; provided further, that in order to secure the credit allowed by this section the taxpayer must be liable for payment of such insulation, storm windows or storm doors and such payment must be made by the taxpayer during the tax year for which the credit is claimed.

(b) The Secretary of Revenue is hereby authorized and directed to adopt rules and regulations requiring that said insulation, storm windows or storm doors shall have a useful life of at least three years and shall reduce heat loss or heat gain in accordance with minimum standards prescribed by the Building Codes Council.

(c) In order to secure the credit allowed by this section, receipts for the payment of such insulation, storm windows or storm doors containing a brief description of such insulation, storm windows or storm doors must be provided upon the request of the Secretary of Revenue.

(d) Notwithstanding any other provisions of this division, the credit allowed by this section shall not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except for payments of tax made by or on behalf of the taxpayer."

Sec. 6. Article 4 of Chapter 105 of the North Carolina General Statutes is hereby amended by adding a new section, G.S. 105-130.24, to read as follows:

"§ 105-130.24. *Credit against corporate income tax for insulation, storm windows and storm doors in business buildings.*—(a) During the period from January 1, 1977, through December 31, 1978, any corporation which installs new or additional insulation, storm windows or storm doors in any building located in North Carolina which was constructed and occupied prior to January 1, 1977, and which is used by the corporation for commercial or business purposes shall be allowed as a credit against the taxes imposed by this division, an amount equal to twenty-five percent (25%) of the cost of such insulation, storm windows or storm doors; provided, that credit allowed under this section shall not exceed one hundred dollars ($100.00) on any single building or for each family dwelling unit of a multi-dwelling building; provided further, that in order to secure the credit allowed by this section the taxpayer must be liable for payment of such insulation, storm windows or storm doors and such payment must be made by the taxpayer during the tax year for which the credit is claimed.

(b) The Secretary of Revenue is hereby authorized and directed to adopt rules and regulations requiring that said insulation, storm windows or storm doors shall have a useful life of at least three years and shall reduce heat loss or heat gain in accordance with minimum standards prescribed by the Building Codes Council.

(c) In order to secure the credit allowed by this section, receipts for the payment of such insulation, storm windows or storm doors containing a brief description of such insulation, storm windows or storm doors must be provided upon the request of the Secretary of Revenue.

(d) Notwithstanding any other provisions of this division, the credit allowed by this section shall not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all other credits allowable under this division."

Sec. 7. Chapter 143 of the General Statutes is hereby amended by adding a new section thereto, to read as follows:

"§ 143-139.2. *Enforcement of insulation requirements; certificate for occupancy; no electric service without compliance.*—(a) In addition to other enforcement provisions set forth in this Chapter, no single family or multi-unit residential building on which construction is begun in North Carolina on or after January 1, 1978, shall be occupied until it has been certified as being in compliance with the minimum insulation standards for residential construction, as prescribed in the North Carolina State Building Code or as approved by the Building Code Council as provided in G.S. 143-138(e). It shall be the duty of each county government and each municipality to provide for a building inspection program for certification of compliance with this section,

either through a person in the county, city or joint inspection department who is responsible for enforcement of the insulation and energy utilization standards of the State Building Code or in any county or city which does not have an inspection department, through a person designated as the energy and insulation inspector.

(b) No public supplier of electric service, including regulated public utilities, municipal electric service and electric membership corporations, shall connect for electric service to an occupant any residential building on which construction is begun on or after January 1, 1978, unless said building complies with the insulation requirements of the North Carolina State Building Code or of local building codes approved by the Building Codes Council as provided in G.S. 143-138(e), and has been certified for occupancy in compliance with the minimum insulation standards of the North Carolina State Building Code or of any local modification approved as provided in G.S. 143-138(e), by a person designated as an inspector pursuant to subsection (a) of this section."

Sec. 8. Chapter 143B of the General Statutes is hereby amended by adding a new section thereto, to read as follows:

"§ 143B-447. *Reporting of stocks of coal and petroleum fuels.*—The Energy Division of the Department of Commerce may, with the prior express approval of the Energy Policy Council and the Governor, require that all coal and petroleum suppliers in North Carolina supplying coal, motor gasoline, middle distillates, residual oils and propane for resale within the State file with the Energy Division, on forms prepared by the Energy Division, accurate reports as to the stocks of coal and petroleum products and storage capacities maintained by said supplier, including said supplier's current inventory and stock of said coal, motor gasoline, middle distillates, residual oils and propane, the expected time such supplies will last under ordinary distribution demand and the schedule for receiving additional or replacement stocks. Such reports and the information contained therein shall be proprietary information available only to regular employees of the Energy Division, except that aggregate tables or schedules consolidating information from said reports may be released if they do not reveal individual report data for any named supplier. It is further the intent of this section that no information shall be required from coal and petroleum suppliers, that is, at the time such reports are requested, already on file with any agency, commission, or department of State government.

It is the intent of this section that such reports be filed only at such times as the Energy Policy Council and the Governor determine that an energy crisis as defined in G.S. 113B-20 exists or may be imminent.

If any petroleum or coal supplier fails to file the accurate reports as may be required by this section for more than 10 days after the date on which any such report is due, the Secretary of Commerce is authorized and empowered to petition the District Court, Division of the General Court of Justice in the county in which the principal office or place of business of said supplier is located for a mandatory injunction compelling said supplier to file said report."

Sec. 9. Chapter 143A of the General Statutes is hereby amended by adding a new section to read and be designated as follows:

"§ 143A-180.4. *Prohibition of master meters for electric and natural gas service.*—From and after September 1, 1977, in order that each occupant of an apartment or other individual dwelling unit may be responsible for his own conservation of electricity and gas, it shall be unlawful for any new residential

building, as hereinafter defined, to be served by a master meter for electric service or natural gas service. Each individual dwelling unit shall have individual electric service with a separate electric meter and, if it has natural gas, individual natural gas service with a separate natural gas meter, which service and meters shall be in the name of the tenant or other occupant of said apartment or other dwelling unit. No electric supplier or natural gas supplier, whether regulated public utility or municipal corporation or electric membership corporation supplying said utility service, shall connect any residential building for electric service or natural gas service through a master meter, and said electric or natural gas supplier shall serve each said apartment or dwelling unit by separate service and separate meter and shall bill and charge each individual occupant of said separate apartment or dwelling unit for said electric or natural gas service. A new residential building is hereby defined for the purposes of this section as any building for which a building permit is issued on or after September 1, 1977, which includes two or more apartments or other family dwelling units. Provided, however, that any owner or builder of a multi-unit residential building who desires to provide central heat or air conditioning or central hot water from a central furnace, air conditioner or hot water heater which incorporates solar assistance or other designs which accomplish greater energy conservation than separate heat, hot water, or air conditioning for each dwelling unit, may apply to the North Carolina Utilities Commission for approval of said central heat, air conditioning or hot water system, which may include a central meter for electricity or gas used in said central system, and the Utilities Commission shall promptly consider said application and approve it for such central meters if energy is conserved by said design. This section shall apply to any dwelling unit normally rented or leased for a minimum period of one month or longer, including apartments, condominiums and townhouses, but shall not apply to hotels, motels, dormitories, rooming houses or nursing homes, or homes for the elderly."

Sec. 10. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 11. Sections 3, 4, 5 and 6 of this act shall be made effective upon ratification for income years beginning on and after January 1, 1977. Each and every other section of this act shall become effective on September 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1298 **CHAPTER 793**

AN ACT TO PROVIDE THAT A LIEN FOR STORAGE PURSUANT TO AN EXPRESS CONTRACT MAY BE ENFORCED WITHIN 120 DAYS OF DEFAULT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-4(a), as the same appears in the 1976 Replacement Volume 2A, is hereby amended by adding at the end of the first unnumbered paragraph a new sentence to read as follows:

"Provided that when property is placed in storage pursuant to an express contract of storage, the lien shall continue and the lienor may bring an action to collect storage charges and enforce his lien at any time within 120 days following default on the obligation to pay storage charges."

Sec. 2. This act shall apply to liens for storage arising on contracts made on and after the effective date.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1337 **CHAPTER 794**

AN ACT TO PREVENT KILLING COUGARS AND TO ESTABLISH A PENALTY FOR VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-87 is hereby amended by adding a new sentence at the end thereof to read as follows:

"Nothing in this section shall authorize the killing of, or the issuance of a permit to kill, any cougar (felis concolor)."

Sec. 2. G.S. 113-109 is hereby amended by adding thereto a new subsection (g) to read as follows:

"(g) Any person who shall take as defined in G.S. 113-83 or possess any cougar (felis concolor) shall be guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than five hundred dollars ($500.00) or imprisoned for not less than six months, or both in the discretion of the court."

Sec. 3. Nothing in this act shall prevent the possession of a cougar (felis concolor) by a bona fide publicly supported zoo or by an educational or scientific research institution under permit from the North Carolina Wildlife Resources Commission.

Sec. 4. G.S. 113-102 is hereby amended by striking the last sentence which reads:

"It shall be unlawful to take North American panthers (cougars) at any time."

Sec. 5. This act shall be enforced by all officers of the Wildlife Resources Commission constituted as "wildlife protectors" as defined in G.S. 113-128.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1340 **CHAPTER 795**

AN ACT TO PROVIDE FOR THE SELF PROVING OF ATTESTED WRITTEN WILLS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 31 of the General Statutes is hereby amended by adding a new Article 4A thereto to read as follows:

"ARTICLE 4A.

"Self Proved Wills.

"§ 31-11.1. *How attested wills may be made self-proved.*—An attested written will executed as provided by G.S. 31-3.3 may at the time of its execution or at any subsequent date be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the attesting witnesses, each made before an officer authorized to administer oaths under the laws of this State, and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content substantially as follows:

'STATE OF NORTH CAROLINA

'COUNTY/CITY OF _____

'Before me, the undersigned authority, on this day personally appeared _____ _____, and _____, known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me first duly sworn. The testator, declared to me and to the witnesses in my presence: that said instrument is his last will; that he had willingly signed or directed another to sign the same for him, and executed it in the presence of said witnesses as his free and voluntary act for the purposes therein expressed; or, that the testator signified that the instrument was his instrument by acknowledging to them his signature previously affixed thereto.

The said witnesses stated before me that the foregoing will was executed and acknowledged by the testator as his last will in the presence of said witnesses who, in his presence and at his request, subscribed their names thereto as attesting witnesses and that the testator, at the time of the execution of said will, was over the age of 18 years and of sound and disposing mind and memory.

_____
Testator

_____
Witness

_____
Witness

_____
Witness

Subscribed, sworn and acknowledged before me by _____, the testator, subscribed and sworn before me by _____, _____ and _____ witness, this _____ day of _____, A.D., _____.

(SEAL) SIGNED_____

_____
(OFFICIAL CAPACITY OF OFFICER)'

The sworn statement of any such witnesses taken as herein provided shall be accepted by the court as if it had been taken before such court."

Sec. 2. G.S. 31-18.1(a) is hereby amended by adding a new subdivision (4) thereto to read as follows:

"(4) Upon a showing that the will has been made self-proved in accordance with the provisions of G.S. 31-11.1."

Sec. 3. This act shall apply to any attested written will in existence on or executed after the effective date of this act.

Sec. 4. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1359 CHAPTER 796

AN ACT TO AMEND CHAPTER 127A OF THE GENERAL STATUTES TO PROVIDE FOR THE AWARDING OF CIVILIAN SERVICE MEDALS AND AWARDS FOR SERVICES RENDERED TO THE NORTH CAROLINA NATIONAL GUARD.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 127A is hereby amended by adding three new sections at the end of G.S. 127A-45 to be designated and to read as follows:

"§ 127A-45.3. *North Carolina National Guard Distinguished Civilian Service Medal.*—There is hereby created the North Carolina National Guard Distinguished Civilian Service Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof, and citation certificate, of a design approved by the Governor or his designated representative. The Governor or his designated representative is authorized to award this medal upon the recommendation of the Adjutant General of North Carolina and a board of officers and noncommissioned officers appointed by the Adjutant General, to United States citizens and governmental officials at the policy development level who render distinguished service to the North Carolina National Guard.

"§ 127A-45.4. *North Carolina National Guard Outstanding Civilian Service Medal.*—There is hereby created the North Carolina National Guard Outstanding Civilian Service Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof, and citation certificate, of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina is authorized to award this medal upon the recommendation of a board of officers and noncommissioned officers, appointed by the Adjutant General, to United States citizens and governmental officials who render outstanding service to the North Carolina National Guard.

"§ 127A-45.5. *North Carolina National Guard Meritorious Civilian Service Award.*—There is hereby created the North Carolina National Guard Meritorious Civilian Service Award which shall consist of a certificate of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina or a designated representative, who shall not be below the grade of general officer, is authorized to confer this award. This award may be granted to individuals, organizations, corporations, associations and other groups, making a substantial contribution to the North Carolina National Guard."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1455 CHAPTER 797

AN ACT TO AMEND THE LAW ENFORCEMENT OFFICERS', FIREMEN'S, RESCUE SQUAD WORKERS', AND CIVIL AIR PATROL MEMBERS' DEATH BENEFIT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166.1 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by adding a new sentence to the section to read as follows: "Official duties of a fireman is defined as being those duties performed while in training or in the course of responding to or returning from a fire call within his own fire district or a call for assistance from any other fire department or organization within the State of North Carolina."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1466 CHAPTER 798

AN ACT TO REWRITE G.S. 28A-14-3 REGARDING NOTICE TO AND THE BARRING OF CLAIMS OF CREDITORS OF DECEDENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 1m. of Chapter 446 of the 1977 Session Laws is rewritten to read as follows:

"m. G.S. 28A-14-3 is rewritten to read as follows:

'§ 28A-14-3. *Personal notice to creditors.*—For a claim to be barred under the provisions of G.S. 28A-19-3, the personal representative or collector shall by certified or registered mail forward to the claimant a statement that the claim shall be barred unless presented in the time and manner set out in Article 19 of this Chapter. A claim not barred by G.S. 28A-19-3 because of the failure to mail the statement may be paid from any undistributed assets of the estate.

Nothing in this section shall be construed to require a personal representative to mail the statement; nor shall a personal representative be liable for failure to mail the statement. In an action brought on a claim that was not barred by G.S. 28A-19-3 because of the failure to mail the statement, the personal representative or collector shall not be chargeable for any assets that he may have paid in satisfaction of any debts, legacies, or distributive shares before such action was commenced; nor shall any costs be recovered in such action against the personal representative or collector.'"

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1484 CHAPTER 799

AN ACT TO AMEND G.S. 62-138 TO PROVIDE FOR RESTRICTIONS ON THE USE OF TELEPHONE MONITORING EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-138 is hereby amended by adding a new subsection (g), to read as follows:

"(g) No public utility may offer or maintain telephone service to any subscriber to such service who has in use or proposes to place in use equipment which will enable said subscriber to observe or monitor telephone calls directed to or placed by said subscriber unless said subscriber shall agree that such equipment shall be used in conformity with the standards for the use of such equipment adopted by the commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1520 CHAPTER 800

AN ACT TO AMEND G.S. 69-25.5 CONCERNING EXPENDITURES OF FIRE PROTECTION DISTRICT TAXES IN BLADEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 69-25.5 is hereby amended by designating the existing section as subsection (a), and adding a new subsection (b) to read as follows:

"(b) In addition to purposes for which the tax may be used pursuant to subsection (a), the proceeds of such tax may be used to reimburse the general fund of the county for all expenses incurred by the county in support of the establishment of a fire district or districts including, but not limited to, preliminary research and study leading to the preparation of the boundaries of the proposed tax district or districts, the cost of any and all reports, surveys and other data necessary and preliminary to circulating petitions to call for an election in the proposed district or districts, identification and certification of properties and their valuations located within the boundaries of the proposed district or districts, the costs of the election, all legal costs incurred by the county through the use of the services of the county attorney, and for all other necessary and reasonable expenses associated with and actually incurred by the county in establishing or supporting the establishment of such fire district or districts."

Sec. 2. This act shall apply only to Bladen County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1527 **CHAPTER 801**

AN ACT TO INCREASE THE MEMBERSHIP OF THE VANCE COUNTY BOARD OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 18A-16, the Vance County Board of Alcoholic Control shall consist of five members rather than three. The two additional members shall be chosen in the same manner as the present three members of the board. The two additional members shall be chosen at the same time as the member chosen to fill the next existing term to expire after the effective date of this act. Of the two new members chosen, one shall be appointed for a term of two years and one for a term of three years; at the expiration of those initial terms, their successors shall be appointed for terms of three years.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 16 **CHAPTER 802**

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

——APPROPRIATIONS FOR MAXIMUMS/REVERT BALANCES

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the State budget. Savings shall be effected where the total amounts appropriated shall not be required to perform these services and accomplish these purposes, and except as allowed by the Executive Budget Act or this act, the savings shall be reverted to the appropriate fund at the end of the biennium.

CONTENTS/INDEX

——APPROPRIATIONS FOR MAXIMUMS/REVERT BALANCES
Section 1.
PART I.——CURRENT OPERATIONS/GENERAL FUND
Sec. 2.
PART II.——CURRENT OPERATIONS/HIGHWAY FUND
Sec. 3.
——HIGHWAY FUND/ALLOCATIONS BY TRANSPORTATION CONTROLLER
Sec. 4.
——HIGHWAY FUND/LIMITATIONS ON TRANSFERS
Sec. 5.
——HIGHWAY FUND/ADJUSTMENTS TO REFLECT ACTUAL REVENUE
Sec. 6.
——HIGHWAY FUND/76-77 CREDIT BALANCE TO SECONDARY MAINTENANCE
Sec. 6.1.

——HIGHWAY FUND/ADJUSTMENTS TO REFLECT FEDERAL FUNDS CHANGES
Sec. 7.
——ELIMINATE CERTAIN SPECIAL FUNDS
Sec. 8.
Sec. 9.
Sec. 10.
——HIGHWAY FUND/NO TRANSFERS TO DRIVER TRAINING PROGRAM
Sec. 11.
PART III.——GENERAL PROVISIONS
——SPECIAL FUNDS/AUTHORIZATION FOR EXPENDITURES
Sec. 12.
——FEDERAL ANTIRECESSION FUNDS/APPROPRIATION
Sec. 12.5.
——FEDERAL REVENUE SHARING/OPERATING APPROPRIATION
Sec. 12.10.
——INSURANCE AND FIDELITY BONDS
Sec. 13.
——RESERVES/NOT TO BE USED TO INCREASE LATER ANNUAL OBLIGATIONS
Sec. 14.
——MOVING EXPENSES OF STATE EMPLOYEES
Sec. 15.
——STATE-OWNED AND -OPERATED OFFICE SPACE/PAYMENT FOR USE
Sec. 15.5.
——NEW OFFICE EQUIPMENT/USE SURPLUS PROPERTY WHERE AVAILABLE
Sec. 15.10.
——STUDY COMMISSIONS/FUNDING SOURCES MUST BE IDENTIFIED
Sec. 15.15
——EXEMPT PERSONNEL ACT SALARY SCHEDULE FILING/REPEAL
Sec. 15.20.
——USE OF FEDERAL FUNDS
Sec. 15.25.
Sec. 15.26.
Sec. 15.27.
Sec. 15.28.
——CONTINGENCY AND EMERGENCY FUND
Sec. 16.
PART IV.——SPECIAL PROVISIONS——HUMAN RESOURCES
——MEDICAID SCHEDULES
Sec. 17.
——NON-MEDICAID MEDICAL SERVICES/STATE PROGRAMS
Sec. 18.
——ADJUSTMENTS IN APPROPRIATIONS/NON-MEDICAID HEALTH PROGRAMS
Sec. 19.

——REST HOMES
Sec. 19.5.
——COMMUNITY MENTAL HEALTH PROGRAMS
Sec. 20.
——GRANTS TO NON-STATE HEALTH AND WELFARE AGENCIES/AUDITS
Sec. 21.
——DIRECT PATIENT-CARE BENEFITS/NO CHANGE TO INDIRECT BENEFITS
Sec. 22.
——LOCAL HUMAN RESOURCES AGENCIES/RULES
Sec. 23.
——COMMUNITY MENTAL HEALTH CENTERS
Sec. 24.
——OLDER AMERICANS FUNDS/MATCH OTHER PROGRAMS
Sec. 25.
——SECRETARY OF HUMAN RESOURCES/REPORT ON REGIONAL OFFICES
Sec. 25.5.
Sec. 25.10. (Moved to new Section 25.30.)
——SPECIALTY HOSPITALS/OPERATIONS STUDY
Sec. 25.15.
——PILOT PROJECT ON ALCOHOLISM/SOCIAL SETTING DETOXIFICATION
Sec. 25.17.
PART V.——SPECIAL PROVISIONS——CORRECTIONS
——SEC. OF CORRECTION/REPORT ON DATA PROCESSING AND PROBATION
Sec. 25.20.
——RETAIN POLK YOUTH CENTER
Sec. 25.25.
——FOUNTAIN SCHOOL/PROGRAM
Sec. 25.29.
——MORRISON SCHOOL/TRANSFER TO DEPARTMENT OF CORRECTION
Sec. 25.30.
——HUDSON PRISON UNIT/COMMUNITY ADVISORY BOARD
Sec. 25.31.
——MEDIUM CUSTODY PRISONERS/WORK ON THE ROADS
Sec. 25.35.
Sec. 25.36.
Sec. 25.37.
PART VI.——SPECIAL PROVISIONS——PUBLIC EDUCATION
——TEXTBOOK APPROPRIATIONS/NOT REVERT
Sec. 26.
——CERTAIN SCHOOL CLERK. & INSTRUCT. PERSONNEL/FUND ALLOCATION
Sec. 27.
——PUBLIC EDUCATION HEALTH, PE, & ATHLETICS/FUND ALLOCATION

Sec. 28.
——MAIDS AND JANITORS, AND PRINCIPAL'S CLERKS/SALARY INCREASES
Sec. 29.
——YOUTH SERVICES/TEXTBOOKS FROM BOARD OF EDUCATION
Sec. 30.
——DRIVER TRAINING AND SAFETY EDUCATION FUND/ADVANCES
Sec. 31.
——READING PROGRAM/THREE ALTERNATIVES
Sec. 31.5.
——OCCUPATIONAL EDUCATION/MAN-MONTHS
Sec. 31.10.
——SCHOOL DROPOUTS/FUND ALLOCATION AND EXTENDED DAY PROGRAMS
Sec. 31.15.
——PUBLIC SCHOOL LIBRARIANS/NO FUNDING
Sec. 31.20.
PART VII.——SPECIAL PROVISIONS——COMMUNITY COLLEGES
——BOOKS AND EQUIPMENT APPROPRIATIONS/REVERT AFTER ONE YEAR
Sec. 32.
——OPERATING APPROPRIATION/NOT USED FOR RECREATION EXTENSION
Sec. 33.
——FULL-TIME EQUIVALENT TEACHING POSITIONS
Sec. 34.
——BOARD OF EDUCATION REVISE FORMULA AMOUNTS
Sec. 35.
——NEW METHOD OF COUNTING FULL-TIME EQUIVALENT STUDENTS
Sec. 35.5.
——RECALL FUNDS DUE TO UNDERENROLLMENTS
Sec. 35.10.
——ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION
Sec. 36.
——ANTICIPATED TUITION CHANGE/REDUCE APPROPRIATIONS
Sec. 36.5.
——ADULT HIGH SCHOOL EXTENSION PROGRAM
Sec. 36.10.
——ASSOCIATE DEGREE NURSING PROGRAM
Sec. 36.15.
Sec. 36.20. (Moved to new Section 35.5.)
——FURTHER SUSPEND PERSONNEL POLICIES
Sec. 36.25.
PART VIII.——SPECIAL PROVISIONS——HIGHER EDUCATION
——WAKE FOREST AND DUKE MED. SCHOOL ASSISTANCE/FUNDING FORMULA
Sec. 37.
——AID TO PRIVATE COLLEGES/PROCEDURE
Sec. 38.

Sec. 38.1.
Sec. 38.2.
——GRANTS TO HOSPITALS/ESTABLISH CERTAIN RESIDENCIES
Sec. 39.
——CITY AND COUNTY BOARDS OF EDUCATION/EXPENSES
Sec. 39.5.
——FUNDS FOR NEEDY STUDENTS FROM UNIV. TUITION INCREASES
Sec. 39.10.
PART IX.——SPECIAL PROVISIONS——SALARIES AND BENEFITS
——AUTHORIZATION FOR ADMINISTRATION OF 6 1/2% SALARY INCREASES
Sec. 40.
——SIX AND ONE HALF PERCENT INCREASE/EPA LEGISLATIVE EMPLOYEES
Sec. 40.3.
——ADDITIONAL MERIT INCREMENT/STATE EMPLOYEES
Sec. 40.5.
——SCHOOL BUS MECHANICS, & PROPERTY & COST CLERKS/ADDED STEP
Sec. 40.6.
——JUDICIAL BRANCH OFFICIALS/SALARIES
Sec. 41.
——ADDITIONAL EXPENSE ALLOWANCE FOR SUPERIOR COURT JUDGES/REPEAL
Sec. 41.1.
——PUBLIC DEFENDERS/SALARY REQUIREMENT CHANGE
Sec. 41.2.
——MAGISTRATES/INCREASE MAXIMUM SALARY
Sec. 41.3.
——COURTS ATTORNEYS/SALARIES STUDIED AND CLASSIFIED
Sec. 41.6.
——CLERKS OF COURT/SALARIES
Sec. 42.
——MOST OF COUNCIL OF STATE, INCLUDING LT. GOVERNOR/SALARIES
Sec. 42.6.
Sec. 42.7.
Sec. 42.8.
Sec. 42.9.
Sec. 42.10.
Sec. 42.11.
Sec. 42.12.
——ATTORNEY GENERAL AND SUPT. PUBLIC INSTRUCTION/SALARIES
Sec. 42.14.
Sec. 42.15.
——NONELECTED DEPT. HEADS/GOVERNOR & ABC CHANGE SALARIES 20%
Sec. 42.20.

——CABINET SECRETARIES/SALARIES
Sec. 42.25.
——HIGHER EDUCATION ACADEMIC PERSONNEL/SALARIES AND LONGEVITY
Sec. 43.
——COMM. COLLEGES PERSONNEL/SALARIES AND LONGEVITY
Sec. 44.
——PUBLIC SCHOOL EMPLOYEES/LONGEVITY
Sec. 44.1.
——EMPLOYER SALARY-RELATED CONTRIBUTIONS
Sec. 45.
——SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS
Sec. 46.
PART X.——SPECIAL PROVISIONS——GEN. GOVT. & TRANS., & OTHER
——CULTURAL RESOURCES GRANTS
Sec. 47.
——AIRPORT IMPROVEMENT GRANTS
Sec. 48.
——NORTH CAROLINA SYMPHONY GRANTS/ADMINISTRATION
Sec. 49.
——INSURANCE AUDITORS/EXPENSE CHANGE
Sec. 50.
——INSURANCE DEPT. SPECIAL FUND/TRANSFER TO GENERAL FUND
Sec. 50.1.
——TREE CONES AND SEEDS/SOME APPROPRIATED FUNDS NOT REVERT
Sec. 50.5.
——STATE WILDLIFE FUND/SURPLUS RECEIPTS
Sec. 50.7.
——ARTIFICIAL REEF FISHING PROGRAM/CLOSE OUT
Sec. 50.10.
——SHOULDER PAVING/STUDY BY DEPARTMENT OF TRANSPORTATION
Sec. 50.15.
——NATIONAL GUARD/PROHIBIT TRANSFER EXCESS TUITION FUNDS
Sec. 50.25.
——SECRETARY OF STATE/CHANGE PUBLICATIONS COSTS
Sec. 50.30.
Sec. 50.31.
——CLEAN WATER BONDS 1971/LOWER CAPE FEAR AUTHORITY ADVANCE
Sec. 50.35.
——UTILITIES COMMISSION/EXECUTIVE DIRECTOR
Sec. 50.40.
——PORTS AUTHORITY/PERSONNEL CONTROL BY SECRETARY OF COMMERCE
Sec. 50.45.

——NAVIGATION AND PILOTAGE COMMISSIONS/MANAGEMENT BY COMMERCE
Sec. 50.46.
——JUVENILE PROBATION AND AFTERCARE/FUNDS
Sec. 50.50.
——CHILD SUPPORT PROGRAM/FUNDS
Sec. 50.51.
——CRIMINAL CODE COMMISSION/FUNDS
Sec. 50.53.
——OIL RECYCLING PROGRAM AND FACILITY
Sec. 50.55.
——CONSULTANT LIMITATIONS/EXEMPT RESEARCH TRIANGLE INSTITUTE
Sec. 50.57.
——AUTHORIZE GENERAL ASSEMBLY DRAFTING STAFF
Sec. 50.60.
——STATE VEHICLES AND AIRCRAFT/LT. GOVERNOR AND SPEAKER
Sec. 50.61.
——TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM/BENEFITS
Sec. 50.65.
Sec. 50.66.
Sec. 50.67.
Sec. 50.68.
Sec. 50.69.
Sec. 50.70.
Sec. 50.71.
——FIREMEN'S PENSION FUND/BENEFITS
Sec. 50.72.
Sec. 50.73.
PART XI.——SPECIAL PROVISIONS——APPROPRIATIONS ACT
——1979-81 BUDGET FORMAT
Sec. 51.
——EXECUTIVE BUDGET ACT REFERENCE
Sec. 52.
——EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY 77-79
Sec. 52.10.
——SEVERABILITY CLAUSE
Sec. 53.
——CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE
Sec. 53.10.
——EFFECTIVE DATE
Sec. 54.
PART I.——CURRENT OPERATIONS/GENERAL FUND

Sec. 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1979, according to the following schedule:

Current Operations—General Fund		1977-78	1978-79
General Assembly	$	4,891,868	$ 6,750,579
Judicial Department	●	52,367,421	51,524,880
The Governor's Office	●	1,136,576	1,136,490
The Lieutenant Governor	●	195,524	195,079
Department of Administration	●	21,342,186	21,458,052
Commission on Indian Affairs	●	151,440	159,586
Department of Secretary of State	●	535,955	486,848
Department of State Auditor	●	4,623,061	4,506,814
Department of State Treasurer	●	1,708,476	1,703,028
Department of Justice	●	15,648,370	14,945,904
Department of Revenue	●	18,986,090	19,330,573
State Board of Elections	●	180,961	211,869
Department of Crime Control and Public Safety	●	5,564,331	5,603,417
Department of Commerce	●	10,340,750	10,600,169
Department of Insurance	●	2,971,803	3,041,589
Department of Labor	●	2,935,762	2,968,512
Department of Correction	●	83,942,633	88,811,537
Department of Public Education			
01. Department of Public Instruction	●	5,229,555	5,322,021
02. State Public School Fund	●	867,835,083	885,995,736
03. State Board of Education	●	3,304,539	3,363,507
04. Occupational Education	●	48,096,959	49,692,054
05. Governor's School	●	218,744	218,836
06. Purchase of School Buses	●	10,022,761	10,447,536
07. Program of Education by Television	●	439,240	444,146
08. School Food Service	●	5,591,555	6,023,052
09. Professional Improvement of Teachers	●	1,102,021	1,100,710
10. Planning Research and Development	●	57,917	60,016
11. Evaluation and Assessment	●	1,334,110	1,052,422
Total Public Schools	●	943,232,484	963,720,036
Department of Community Colleges			
01. Department of Community Colleges	●	99,957,290	109,381,068
a. Longevity	●	311,880	364,984
b. Merit Salary Increases	●	1,561,203	3,643,171
02. Department of Community Colleges - Equipment	●	5,316,458	6,058,094
03. Vocational Textile School	●	276,748	283,167
Total Community Colleges	●	107,423,579	119,730,484
The University of North Carolina Board of Governors			
a. General Administration	●	4,439,545	4,466,347
b. Lump Sum Appropriations	●	21,144,925	22,698,746

c. Related Educational Programs	●	16,974,749	17,870,942
04. Agricultural Programs	●	1,266,400	1,266,400
05. Reserve for Merit Increases			
a. Sixteen Constituent Universities	●	2,719,221	5,441,496
b. Agricultural Programs	●	218,181	433,992
c. Memorial Hospital	●	62,598	124,512
06. University of North Carolina at Chapel Hill			
a. Academic Affairs	●	42,022,284	42,609,119
b. Division of Health Affairs	●	28,057,619	28,625,712
c. Area Health Education Centers	●	10,697,229	10,680,361
07. North Carolina State University at Raleigh			
a. Academic Affairs	●	42,039,897	42,372,126
b. Industrial Extension Service	●	780,119	776,782
c. Agricultural Experiment Station	●	12,486,010	12,598,791
d. Agricultural Extension Service	●	9,702,149	9,659,697
08. University of North Carolina at Greensboro	●	17,135,578	17,281,944
09. University of North Carolina at Charlotte	●	13,878,559	14,127,482
10. University of North Carolina at Asheville	●	3,041,669	3,096,322
11. University of North Carolina at Wilmington	●	6,083,458	6,146,103
12. East Carolina University	●	22,723,443	22,828,331
13. North Carolina Agricultural & Technical State University	●	10,038,870	10,217,194
14. Western Carolina University	●	10,904,351	11,062,303
15. Appalachian State University	●	14,771,523	14,848,701
16. Pembroke State University	●	3,777,011	3,878,807
17. Winston-Salem State University	●	4,532,581	4,599,673
18. Elizabeth City State University	●	3,555,520	3,558,886
19. Fayetteville State University	●	4,175,822	4,208,086
20. North Carolina Central University	●	8,769,769	8,913,809
21. North Carolina School of the Arts	●	2,207,346	2,216,911

22. North Carolina Memorial Hospital	●	20,417,904	20,922,319
Total University of North Carolina	●	338,624,330	347,531,894
Department of Cultural Resources	●	11,444,355	11,629,937
Department of Transportation			
01. Airport Aid	●	1,616,571	1,612,184
02. Mass Transit Aid	●	1,060,000	1,007,528
Total Department of Transportation	●	2,676,571	2,619,712
Department of Human Resources			
01. Central Administration	●	6,704,699	7,244,999
02. Health Services	●	31,168,307	32,842,906
03. Services for the Blind	●	3,778,337	3,645,144
04. Vocational Rehabilitation	●	8,975,830	10,263,738
05. Mental Health Services			
a. Administration and Grants-in-aid	●	37,474,421	38,908,567
b. Alcoholic Rehabilitation Center, Black Mountain	●	1,608,019	1,662,313
c. Alcoholic Rehabilitation Center, Butner	●	1,123,000	1,151,496
d. Walter B. Jones Alcoholic Rehabilitation Center, Greenville	●	1,139,005	1,215,024
e. Dorothea Dix Hospital	●	16,206,030	16,931,756
f. Broughton Hospital	●	12,821,691	13,250,057
g. Western Carolina Center	●	6,972,382	6,899,344
h. Cherry Hospital	●	13,534,883	14,334,006
i. O'Berry Center	●	7,605,620	7,970,147
j. John Umstead Hospital	●	12,408,935	12,933,680
k. Murdoch Center	●	12,448,977	12,928,769
l. Caswell Center	●	13,825,915	13,226,952
m. Wright School	●	617,132	644,530
06. North Carolina Orthopedic Hospital	●	633,836	
07. Lenox Baker Children's Hospital of North Carolina	●	484,054	504,348
08. Confederate Women's Home	●	76,947	107,879
09. North Carolina Specialty Hospitals			
a. General Administrative Office	●	228,813	236,399
b. McCain Hospital	●	2,705,565	2,744,477
c. Western Carolina Hospital	●	2,393,997	2,435,655
d. Eastern North Carolina Hospital	●	2,640,651	2,598,729
10. Division of Youth Services	●	9,756,634	9,850,614
11. North Carolina School for the Deaf	●	4,310,222	4,307,198

12. Eastern North Carolina School for the Deaf	●	2,218,032	2,256,370
13. Central North Carolina School for the Deaf	●	1,513,685	1,571,333
14. Governor Morehead School	●	2,408,688	2,451,761
15. Facility Services	●	6,374,114	6,256,245
16. Social Services	●	124,639,915	132,978,462
17. State Aid to Non-State Health & Welfare Agencies	●	3,521,048	3,513,425
Total Department of Human Resources	●	352,319,384	367,866,323
Department of Natural and Economic Resources	●	22,654,871	21,806,655
Department of Agriculture	●	14,717,652	16,428,457
Debt Service-Interest	●	25,802,210	30,722,000
Debt Service-Redemption	●	23,400,000	25,900,000
Contingency and Emergency	●	1,500,000	1,500,000
Salary Adjustment of State Employees	●	800,000	1,300,000
Reserve for Hospitalization Benefit Increases	●	3,400,000	3,500,000
Reserve for Longevity	●	647,500	647,500
Reserve for Seventh Merit Step	●	3,400,000	5,500,000
Salary Increase for Teachers and State Employees			
01. Public School Employees	●	52,476,657	53,666,749
02. Community College Personnel	●	6,325,443	6,873,411
03. UNC Board of Governors, EPA:			
a. 16 Constituent Institutions	●	10,345,547	10,407,997
b. Memorial Hospital	●	238,156	238,156
c. Agricultural Programs	●	830,096	830,096
04. Employees subject to the State Personnel Act	●	28,859,635	29,156,564
05. Court System Personnel	●	3,225,492	3,389,056
06. Teachers, Youth Services	●	102,642	102,642
07. Other positions exempt from the State Personnel Act and Utilities Commissioners	●	148,588	148,588
08. General Assembly	●	68,837	68,837
Total Salary Increases	●	102,621,093	104,882,096
GRAND TOTAL—GENERAL FUND		$2,182,187,236	$2,258,720,020

PART II.——CURRENT OPERATIONS/HIGHWAY FUND

Sec. 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1979, according to the following schedule:

Current Operations—Highway Fund		1977-78	1978-79
Department of Transportation			
01. General Administration	$	10,547,893	$ 11,119,019
02. Highways			
a. Management and Operations	•	18,243,517	18,182,367
b. State Construction			
(01) Primary Construction	•	19,520,000	23,286,000
(02) Secondary Construction	•	25,856,718	23,427,785
(03) Urban Construction	•	6,880,000	8,090,000
(04) Access and Public Service Roads	•	500,000	500,000
(05) Bridge Replacements	•	5,212,300	5,212,300
c. State Funds to Match Federal Highway Aid - Construction	•	45,909,400	47,873,400
d. State Funds to Match Federal Highway Aid - Planning Survey & Highway Planning Research	•	1,660,151	1,543,331
e. State Maintenance			
(01) Primary	•	46,368,395	47,529,381
(02) Secondary	•	71,704,749	73,343,703
(03) Urban	•	13,532,613	13,908,202
f. Ferry Operations	•	5,008,686	4,883,686
g. State Aid to Municipalities	•	31,842,838	32,957,337
03. Mass Transit Administration	•	142,393	142,393
04. Aeronautics Administration	•	134,154	34,154
05. Motor Vehicles	•	23,935,888	23,992,485
06. Reserves and Transfers			
a. Merit Salary Increments	•	5,761,436	9,410,615
b. Employers' Social Security Contribution for Central Offices and Division of Highways	•	7,593,505	7,721,126
c. Employers' Retirement Contribution for Central Offices and Division of Highways	•	11,122,617	11,122,617
d. Employers' Hospital/Medical Insurance Contribution for Central Offices & Division of Highways	•	3,767,462	3,767,462
e. Salary Increases for Permanent Highway Fund Positions	•	11,702,490	11,705,465
f. Salary Adjustments for Highway Fund Positions	•	400,000	650,000
07. Debt Service	•	27,522,500	26,691,000
08. Reserve for Contingencies and Emergencies	•	250,000	250,000

09. Reserve to Correct Occupational Safety and Health Act Deficiencies	•	500,000	500,000
h. Additional Longevity Pay for Highway Fund Positions	•	277,500	277,500
i. Seventh Merit Increment Step for Highway Fund Positions	•	2,100,000	3,010,000
10. Appropriations for Other State Agencies	•	33,445,663	32,716,540
GRAND TOTAL—HIGHWAY FUND	$	431,442,868	$ 443,847,868

——HIGHWAY FUND/ALLOCATIONS BY TRANSPORTATION CONTROLLER

Sec. 4. The Controller of the Department of Transportation is directed to allocate at the beginning of each fiscal year, from the various appropriations made to the Department of Transportation in Section 3 of this act under Titles 02.b., 02.c., 02.d., 02.e., and 02.f., sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and such allocations may not be diverted to other purposes.

——HIGHWAY FUND/LIMITATIONS ON TRANSFERS

Sec. 5. Transfers may be made by authorization of the Director of the Budget from Section 3 of this act, Titles 02.b.(01), 02.b.(03), 02.b.(04), 02.c., 02.d., 02.e., 02.f., provided that the original appropriation from which the transfer is made shall not be reduced by more than ten percent (10%) without the approval of the Governor and the Advisory Budget Commission. Transfers from Section 3 of this act, Titles 02.b.(01), 02.b.(03), 02.b.(04), 02.d., 02.e., and 02.f., for the purpose of providing additional positions, shall be approved by the Governor and the Advisory Budget Commission.

——HIGHWAY FUND/ADJUSTMENTS TO REFLECT ACTUAL REVENUE

Sec. 6. In the event of an unreserved Highway Fund credit balance, in either fiscal year of the 1977-79 biennium, exceeding the total of the related Highway Fund appropriations made in this act, the excess shall be allocated in the succeeding fiscal year to the State-funded construction appropriations in the Primary, Secondary and Urban systems in the same proportional amounts as the original appropriations to those systems.

In the event Highway Fund revenues are less than the amounts appropriated in this act, State-funded construction appropriations in the Primary, Secondary and Urban systems shall be reduced to the extent necessary to cover any anticipated deficit.

During each fiscal year, the Director of the Budget may authorize the establishment of a reserve for access and public service roads, a reserve for unforeseen happenings or state of affairs requiring prompt action as provided for by G.S. 136-44.2, and other required reserves.

——HIGHWAY FUND/76-77 CREDIT BALANCE TO SECONDARY MAINTENANCE

Sec. 6.1. In the event of an unreserved Highway Fund credit balance accruing with the fiscal year ending June 30, 1977, the entire amount shall be allocated to Secondary Road Maintenance.

——HIGHWAY FUND/ADJUSTMENTS TO REFLECT FEDERAL FUNDS CHANGES

Sec. 7. In the event the availability of federal funds or the rate of federal matching for any program under the federal aid construction program is changed during any part of the 1977-79 biennium, the Director of the Budget may authorize transfers of sufficient funds to provide adequate matching for federal aid construction funds. These transfers may be made only in appropriations from Section 3 of this act between Titles 02.b., State construction; 02.c., State funds to match federal aid construction; 02.d., State funds to match federal aid highway planning survey and highway planning research; and 02.e., State maintenance; or within the affected federal aid programs; provided that no transfers shall be made from Title 02.e., State maintenance, until all available funds from the other sources listed in this section have been utilized.

——ELIMINATE CERTAIN SPECIAL FUNDS

Sec. 8. G.S. 20-289(b) concerning the Dealers' - Manufacturers' License Fund is amended by rewriting the first sentence to read as follows: "The fees and licenses collected under this section shall be placed in the Highway Fund."

Sec. 9. G.S. 20-324 concerning the Commercial Driver Training Law Fund is amended by rewriting the third sentence to read as follows: "The license fees collected under this section shall be used under the supervision and direction of the Director of the Budget for the administration of this Article."

Sec. 10. Any balances remaining in the "Dealers' - Manufacturers' License Fund" and the "Commercial Driver Training Law Fund" on July 1, 1977, shall be placed in the Highway Fund.

——HIGHWAY FUND/NO TRANSFERS TO DRIVER TRAINING PROGRAM

Sec. 11. During the 1977-79 biennium, Highway Fund appropriations shall not be transferred to the State Board of Education to supplement the annual vehicle registration tax collected under G.S. 20-88.1. (See also Section 31 of this act.)

PART III.——GENERAL PROVISIONS

——SPECIAL FUNDS/AUTHORIZATION FOR EXPENDITURES

Sec. 12. There is appropriated out of the cash balance and receipts available in the various Special Funds sufficient amounts to carry on required activities included under each fund's operations subject to provisions of the Executive Budget Act, G.S. Chapter 143, Article 1.

——FEDERAL ANTIRECESSION FUNDS/APPROPRIATION

Sec. 12.5. To the end of complying with federal regulations pertaining to the expenditure of Title II Antirecession funds, the item below, which is an element of 1977-79 current operations appropriation to the Department of Correction enumerated in Section 2 of this act and relevant budget documents, is to be financed to the degree indicated from the Federal Antirecession Trust Fund of the State:

	1977-78	1978-79
Department of Correction		
Adult Prisons		
Custody and Security	$7,800,000	$1,800,000

——FEDERAL REVENUE SHARING/OPERATING APPROPRIATION

Sec. 12.10. To the end of providing maximum flexibility for the expenditure of appropriations consistent with federal regulations governing expenditure of general shared federal revenue, the items below, which are elements of 1977-79 current operations appropriation to the indicated departments as enumerated in Section 2 of this act, and relevant budget documents, are to be financed from the General Revenue Sharing Trust Fund of the State:

OPERATIONS	1977-78	1978-79
Education		
Public Schools		
Textbooks-Elementary	9,966,746	7,510,589
Textbooks-High School	3,189,351	3,144,410
School Bus Acquisition	10,296,685	10,447,536
Subtotal	$23,452,782	$21,102,535
Treasurer		
Debt Service	6,431,260	6,921,597
Subtotal	$ 6,431,260	6,921,597
TOTAL-OPERATIONS	$29,884,042	$28,074,132

——INSURANCE AND FIDELITY BONDS

Sec. 13. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of such placement shall be paid by the department, institution, or agency involved upon bills rendered to and approved by the Insurance Commissioner.

——RESERVES/NOT TO BE USED TO INCREASE LATER ANNUAL OBLIGATIONS

Sec. 14. Expenditures of funds appropriated in this act as reserves shall not be scheduled in amounts or in such manner as to create an increased annual obligation in the succeeding year, except as otherwise provided in this act.

——MOVING EXPENSES OF STATE EMPLOYEES

Sec. 15. A new section is added to the General Statutes to read as follows:

"§ 138-8. *Moving expenses of State employees.*—Subject to the rules and regulations promulgated by the Department of Administration and approved by the Director of the Budget, any department, institution or agency of the State is hereby authorized to pay, from funds available to it, reasonable expenses for transporting the household goods of an employee and members of his household when the transfer of the employee is considered by the Director of the Budget to be in the best interests of the State."

——STATE-OWNED AND -OPERATED OFFICE SPACE/PAYMENT FOR USE

Sec. 15.5. The Department of Administration is directed to determine equitable fees for the use of State-owned and -operated office space, and to assess "self-supporting" agencies for payment of these fees. The payments shall be made to the Department of Administration.

——NEW OFFICE EQUIPMENT/USE SURPLUS PROPERTY WHERE AVAILABLE

Sec. 15.10. During the 1977-79 biennium, no State agency may purchase new office equipment if adequate equipment is available through the State

Surplus Property Warehouse. The head of the agency making the purchase shall determine that no adequate surplus equipment is available before approving the purchase of new equipment. A list of equipment to be offered for sale shall be provided to each State department and agency by the Department of Administration at least 30 days prior to the date of sale.

——STUDY COMMISSIONS/FUNDING SOURCES MUST BE IDENTIFIED

Sec. 15.15. All study commissions created or extended by the 1977 General Assembly shall have an adequate source of funding specifically identified before undertaking any significant action. Except for those expenses reasonably related to a single one-day meeting held to adopt a study commission budget, no State funds shall be expended for any study commission activity occurring prior to any approval of funding granted by a discretionary body with authority over contingency or other similar funds.

——EXEMPT PERSONNEL ACT SALARY SCHEDULE FILING/REPEAL

Sec. 15.20. G.S. 143-34.3 is repealed.

——USE OF FEDERAL FUNDS

Sec. 15.25. G.S. 143-34.2 is amended by adding a new paragraph as follows:

"Any contract entered into by a State agency, department, or institution for a federal grant shall include a limiting clause which specifically states that continuation of the grant program by the State of North Carolina is subject to State funds being appropriated by the General Assembly for that program."

Sec. 15.26. Any of the several State departments, agencies, institutions, boards or commissions authorized to make application for, receive or disburse any form of federal aid to the State shall deposit all such federal monies received with the State Treasurer and shall expend such funds in accordance with the terms and conditions of the federal award which are not contrary to the laws of North Carolina. All such federal funds shall be expended and reported in accordance with provisions of the Executive Budget Act. Proposed budgets recommended to the General Assembly by the Governor and Advisory Budget Commission shall include all appropriate information concerning the federal expenditures in State agencies, departments and institutions. Recognizing that federal grants to institutions of higher education for research and training are subject to special requirements, the constituent institutions of The University of North Carolina shall be excluded from the provisions of this section for the 1977-1978 fiscal year (or until July 1, 1978).

Sec. 15.27. Whenever any federal funds are awarded to a State agency, department, institution, board or commission in block or lump sum form which in turn allocates such aid, in total or in part, in a discretionary manner to State or local public entities or private entities, such agency, department, institution, board, or commission shall report such allocations made to the Governor and Advisory Budget Commission for review as may be required by either of them.

Sec. 15.28. All federal receipts and departmental receipts contained in The Budget 1977-1979 are hereby appropriated for the purposes therein set forth.

——CONTINGENCY AND EMERGENCY FUND

Sec. 16. The Director of the Budget, with the approval of the Council of State, is authorized to make transfers from the General Fund Contingency and Emergency Fund and the Highway Fund Contingency and Emergency Fund for

any lawful purpose for which no specific appropriation has been made or when, inadvertently, an insufficient appropriation has been made.

PART IV.——SPECIAL PROVISIONS——HUMAN RESOURCES ——MEDICAID SCHEDULES

Sec. 17. Appropriations in Section 2 of this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for such services are to be expended in accordance with the following schedule of services and payment basis:

Services	Payment Basis
Hospital - Inpatient	Allowable costs, but administrative days for any period of hospitalization shall be limited to a maximum of 3 days.
Hospital - Outpatient	90 percent of allowable costs.
State Mental and Specialty Hospitals and Mental Retardation Centers (All Medicaid services including mental, medical, intermediate care and skilled nursing care)	Allowable costs.
Skilled Nursing Facilities	Allowable costs not to exceed $28.00 per day.
Drugs	Drug cost as allowed by federal regulation plus $2.50 professional service fee per month excluding refills for same drug or generic equivalent during the same month. (Payments for drugs are subject to the language on drugs at the end of this section.)
Physicians	90 percent of allowable usual and customary charges. Physician Services includes procedures dealing with tumors, fractures, or cysts performed by a dentist oral surgeon at the request of the attending physician.
Chiropractors	90 percent of allowable usual and customary charges.
Dental	90 percent of allowable usual and customary charges for children under 21 years old

	referred by the Early Periodic Screening and Diagnostic Treatment Program (EPSDT). For those other Medicaid patients who have dental procedures that were in progress prior to July 1, 1977, the Medicaid program will continue payment for these procedures, but the Medicaid program will not continue to reimburse for these procedures provided after September 30, 1977.
Home Health	Allowable costs.
Optical Services	90 percent of allowable usual and customary charges.
Medicare Buy-In	Social Security. Administration premium.
Clinics - Public Health	Allowable costs.
Ambulance Services	100 percent of allowable, reasonable, usual and customary charges.
Pre-21 Screening	See specific services, i.e., Physician and Clinic.
Hearing Aids	80 percent usual, customary, and reasonable charges (including dispensing fee).
Clinics - Mental Health	Allowable costs (federal portion only; nonfederal share covered by State/local operating funds).
Intermediate Care Facilities	Allowable costs not to exceed $23.30 per day.
Family Planning	See specific services, i.e., Hospital, Physician, and Clinic.
Independent Laboratory and X-Ray Services	90 percent of allowable usual and customary charges.
Optical Supplies	100 percent of reasonable wholesale cost of materials.

Any changes in services or basis of payment in the Medicaid Program must be approved by the Governor and the Advisory Budget Commission.

The State shall pay eighty-five percent (85%) and the counties shall pay fifteen percent (15%) of the nonfederal costs of applicable services listed in this section. These same State and county percentages shall be used for any prepaid premium if Medicaid services and related administrative costs are paid for by a health-insuring contractor.

As allowed by federal regulations, recipient co-payments shall be required for services under Medicaid as follows:

Service	Eligibility: Categorically Needy	Eligibility: Medically Needy	Co-Payment for Each Occasion of Service
Hospital - Inpatient		x	$ 2.00
Hospital - Outpatient		x	2.00
Physicians		x	1.00
Optometrists		x	1.00
Drugs	x	x	.50
Dental	x	x	3.00
Chiropractors	x	x	.50
Optical Supplies and Services	x	x	2.00
Mental Health Centers	x	x	1.00
Health Departments	x	x	1.00

Maximum net family annual income eligibility standards for Medicaid shall be as follows:

Family Size	Categorically Needy	Medically Needy
1	$1,452	$1,700
2	1,908	2,200
3	2,196	2,500
4	2,400	2,800
5	2,628	3,000
6	2,832	3,200
7	3,036	3,400
8	3,168	3,600
9	3,300	3,800
10	3,480	4,000
11	3,660	4,200
12	3,840	4,400
13	4,020	4,600

Any change in these standards must be approved by the Governor and the Advisory Budget Commission.

Notwithstanding any provision of G.S. 90-76 to the contrary, during the 1977-79 biennium, under the Medical Assistance program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in his own handwriting on the prescription order, "dispense as written" or words of similar meaning. As used in this paragraph "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label or wrapping at the time of packaging; and "established name" shall have the same meaning as assigned that term by the Federal Food, Drug and Cosmetic Act as amended, Title 21 U.S.C. 301 et seq.

Notwithstanding the schedule for services and payment basis in the first part of this section, Medicaid assistance rates for all providers of health-related services except those for hospital inpatient care (general, mental, and specialty

hospitals), intermediate care facilities for the mentally retarded, and drugs shall not be in excess of the rates paid to the individual providers as of April 1, 1977. ICFs (Intermediate Care Facilities) and SNFs (Skilled Nursing Facilities) shall be exempted from this provision upon implementation of a new cost-related rate plan, as may be required by federal regulation. The provisions of this paragraph shall expire June 30, 1978.

——NON-MEDICAID MEDICAL SERVICES/STATE PROGRAMS

Sec. 18. Providers of medical services under the various State programs other than Medicaid offering medical care to citizens of the State shall be reimbursed at rates no more than those under the Medicaid program. This provision relates specifically to the Crippled Children and Maternal and Child Health programs and the Chronic Disease Section of the Division of Health Services, and to services under Vocational Rehabilitation and Services to the Blind under the Department of Human Resources.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Maternal and Child Care, Cancer, Migrant Health	Kidney	Blind Rehabilitation
1	$ 4,200	$6,400	$ 3,600
2	5,300	8,000	4,800
3	6,400	9,600	5,700
4	7,500	11,000	6,300
5	7,900	12,000	6,900
6	8,300	12,800	7,500
7	8,800	13,600	8,100
8	9,300	14,400	8,700
9	9,800	15,200	9,300
10	10,300	16,000	9,900
11	10,900		
12	11,400		
13	12,000		

Family Size	Medical Eye Care Blind Adults	Medical Eye Care Blind Preschool and School Children	Vocational Rehabilitation
1	$ 1,800	$ 4,200	$ 2,568
2	2,520	5,300	4,260
3	3,180	6,400	5,052
4	3,600	7,500	6,204
5	3,960	7,900	7,104
6	4,320	8,300	7,814
7	4,680	8,800	8,524
8	5,040	9,300	9,235
9		9,800	9,945
10		10,300	10,656
11		10,900	11,366
12		11,400	12,076
13		12,000	12,787

Any change in these standards must be approved by the Governor and the Advisory Budget Commission.

——ADJUSTMENTS IN APPROPRIATIONS/NON-MEDICAID HEALTH PROGRAMS

Sec. 19. Appropriations made in this act for health programs not covered under Medicaid are to provide for the purchase of medical services for a full twelve-month period for eligible recipients under these programs. If, during either fiscal year of the 1977-79 biennium, expenditures in these programs indicate that the funds may be insufficient for a full twelve months, the Department of Human Resources shall adjust the eligibility requirements for participation in these programs or restrict services provided by the Department to only those services most essential to protect the health and provide for the well-being of eligible clients, to the end that the appropriations are sufficient.

——REST HOMES

Sec. 19.5. Funds appropriated in Section 2 of this act to the Department of Human Resources, Division of Social Services, for the Special Assistance to Adults Program, include funds to be used to supplement the amounts currently (June 16, 1977) available from either Social Security payments or Supplementary Security Income payments, or both, to General Assistance recipients for their care and custody in Family Care Homes and Homes for the Aged.

——COMMUNITY MENTAL HEALTH PROGRAMS

Sec. 20. Appropriations made in this act to the Division of Mental Health Services for community mental health programs as authorized by the General Statutes may be used for all services delivered by area mental health programs.

——GRANTS TO NON-STATE HEALTH AND WELFARE AGENCIES/AUDITS

Sec. 21. Non-State health and welfare agencies shall submit their appropriation requests for grants-in-aid through the Secretary of the Department of Human Resources for recommendations to the Governor and the Advisory Budget Commission and the General Assembly, and agencies receiving these grants, at the request of the Secretary of the Department of Human Resources, shall provide a postaudit of their operations that has been done by a certified public accountant.

——DIRECT PATIENT-CARE BENEFITS/NO CHANGE TO INDIRECT BENEFITS

Sec. 22. In order that an adequate level of direct patient care in the Department of Human Resources health care institutions may be maintained, positions recommended for direct patient care in the budget shall not be reclassified and funds shall not be reallocated to nondirect patient-care activities.

——LOCAL HUMAN RESOURCES AGENCIES/RULES

Sec. 23. The Secretary of the Department of Human Resources is authorized to establish rules and regulations applicable to local human resources agencies for the purpose of program evaluation, fiscal audits, reporting, planning and collection of third-party payments.

——COMMUNITY MENTAL HEALTH CENTERS

Sec. 24. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, two million seven hundred thousand dollars ($2,700,000) in fiscal year 1977-78 is for the Division of Mental Health Services for inpatient services in community mental health centers. These funds are to

be distributed to the area mental health boards to assist in the start-up phase of new inpatient units on the basis of Rules and Regulations adopted by the Department of Human Resources. The funds for start-up costs are to be distributed in addition to any other State monies to community mental health centers.

To qualify for funds under this section, area mental health boards shall submit a plan to the Department of Human Resources that details how these funds are to be expended and the procedures that will be employed to collect patient fees and various forms of third-party reimbursements.

——OLDER AMERICANS FUNDS/MATCH OTHER PROGRAMS

Sec. 25. The Department of Human Resources, Division of Aging, is authorized to use funds appropriated for the 1977-79 biennium as State matching funds for Title VII of The Older Americans Act as State matching funds for other federal programs.

——SECRETARY OF HUMAN RESOURCES/REPORT ON REGIONAL OFFICES

Sec. 25.5. The Secretary of the Department of Human Resources shall conduct an evaluation of the functions and role of that Department's regional offices. On or before January 15, 1978, the Secretary shall file a report on this evaluation with the Governor, the chairmen of the Appropriations Committees of the Senate and House of Representatives, the Lieutenant Governor, and the Speaker of the House of Representatives. The report shall outline:

(1) the functions of the regional offices in each division of the Department of Human Resources;

(2) the management authority and service delivery responsibilities of the regional offices in each division of the department;

(3) the number of personnel assigned to each regional office by type of position for each division within the department;

(4) the costs associated with each regional office by line item, including any costs of regional administration that are now assigned to the central offices in Raleigh;

(5) recommendations that would lead to reduced operating costs and improved efficiency in the regional offices.

Sec. 25.10. (Moved to new Section 25.30.)

——SPECIALTY HOSPITALS/OPERATIONS STUDY

Sec. 25.15. The Director of the Budget shall conduct a study of the North Carolina Specialty Hospitals located at Wilson, Gastonia, McCain, and Black Mountain to determine the need to continue their operations as treatment centers for tuberculosis and other diseases or to provide health care in areas other than their specialties. The Director of the Budget shall make recommendations to the 1977 General Assembly, Second Session 1978, based on this study as to the future use of these facilities or as to their disposition if it is determined that they are no longer needed for State programs.

——PILOT PROJECT ON ALCOHOLISM/SOCIAL SETTING DETOXIFICATION

Sec. 25.17. Of the funds appropriated to the Department of Human Resources, Division of Mental Health Services, in Section 2 of this act, sixty thousand dollars ($60,000) shall be used to fund the Social Setting Detoxification Center Project by the Orange-Person-Chatham Mental Health Center.

PART V.——SPECIAL PROVISIONS——CORRECTIONS

——SEC. OF CORRECTION/REPORT ON DATA PROCESSING AND PROBATION

Sec. 25.20. The Secretary of the Department of Correction shall conduct an evaluation of that department's data processing services and of the regional management structure of the Division of Probation and Parole. On or before January 15, 1978, the Secretary shall file a report on this evaluation with the Governor, the chairmen of the Appropriations Committees of the Senate and House of Representatives, the Lieutenant Governor, and the Speaker of the House of Representatives. This report shall outline:

(1) the functions of data processing services with the Department of Correction;

(2) the functions of the regional management structure in the Division of Probation and Parole;

(3) the number of personnel by type assigned to data processing and to the field offices of the Division of Probation and Parole;

(4) recommendations that would lead to the improved efficiency of both data processing services and the field operations of the Division of Probation and Parole.

——RETAIN POLK YOUTH CENTER

Sec. 25.25. On January 4, 1973, and August 6, 1974, the Council of State transferred approximately 164 acres of State land in the vicinity of Blue Ridge Road and Interstate Highway 40 from the Department of Correction to the Art Museum Building Commission, and the Council temporarily reserved for continued use by the Department of Correction 45 acres of land and buildings used as a youthful offenders prison unit known as Camp Polk. Notwithstanding any contrary language in the action by the Council of State, before the 45 acres temporarily reserved for the Department of Correction may be given any new use by the Art Museum Building Commission and before any forced surrender of the reserved 45 acres is required of the Department of Correction, the new use must be expressly approved by the General Assembly at some time after the effective date of this act.

——FOUNTAIN SCHOOL/PROGRAM

Sec. 25.29. The funds appropriated by this act to the Department of Correction for the Richard T. Fountain School in Edgecombe County are to be used by the Department of Correction at the Richard T. Fountain School to address the specialized treatment needs of the young population 18 years and younger who are committed or assigned to the Department of Correction and who have been selected by the Department of Correction through a process designed to identify those youngsters who show the greatest potential to participate productively in educational and vocational training opportunities. In operating this facility the Department of Correction shall actively solicit the aid and cooperation of the Department of Human Resources, the Department of Public Instruction, and citizens in the communities in the area of the Richard T. Fountain School. The Department of Correction shall establish a volunteer Community Advisory Board to participate in coordination of the program at the school.

——MORRISON SCHOOL/TRANSFER TO DEPARTMENT OF CORRECTION

Sec. 25.30. The Cameron Morrison School shall be closed by the Department of Human Resources and the Commission of Youth Services on or before July 31, 1977, and after that date no funds available to the Department shall be used in the continued operation of the school. As of July 1, 1977, all property comprising the former Cameron Morrison School is transferred to the Department of Correction, Division of Prisons. The property transferred shall include land and buildings together with property installed in the buildings. The disposition of movable equipment and supplies on the site shall be determined by the State Property Office after consultation with the departments involved. The Department of Correction shall establish a volunteer Community Advisory Board to participate in coordination of programs at the facility.

——HUDSON PRISON UNIT/COMMUNITY ADVISORY BOARD

Sec. 25.31. The Department of Correction shall establish a volunteer Community Advisory Board to participate in coordination of the programs at the Hudson Prison Unit in Caldwell County.

——MEDIUM CUSTODY PRISONERS/WORK ON THE ROADS

Sec. 25.35. Of the funds appropriated in Section 3 of this act to the Department of Transportation, five hundred thousand dollars ($500,000) shall be transferred to the Department of Correction to fund the expenses of using medium custody inmates to work on public roads.

Sec. 25.36. G.S. 148-26(b), as it appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is amended by deleting the first sentence and substituting the following:

"As many minimum custody prisoners as are available and fit for road work, who cannot appropriately be placed on work release, study release, or other full-time programs, and as many medium custody prisoners as are available, fit for road work and can be adequately guarded during such work without reducing security levels at prison units, shall be employed in the maintenance and construction of public roads of the State."

Sec. 25.37. The Department of Correction shall exercise all due diligence to accelerate the classification of minimum and medium custody prisoners, so that work under G.S. 148-26(b) may proceed.

PART VI.——SPECIAL PROVISIONS——PUBLIC EDUCATION

——TEXTBOOK APPROPRIATIONS/NOT REVERT

Sec. 26. Funds appropriated in this act to the State Department of Public Education for the purchase of elementary basic textbooks shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the biennium.

——CERTAIN SCHOOL CLERK. & INSTRUCT. PERSONNEL/FUND ALLOCATION

Sec. 27. Funds appropriated in this act to the State Department of Public Education for clerical assistance in the public schools and for instructional personnel in psychological and guidance counseling, health and social services, reading, mathematics, and cultural arts shall be allocated to local administrative units according to formulas in effect on June 30, 1977. The State Board of Education shall require local administrative units to provide evidence that the expenditure of local funds for each such purpose is no less than the amount expended per pupil in average daily membership for each such purpose during the prior year. At the discretion of the State Board of

Education, funds appropriated under this act may be withheld to ensure that supplanting of local funds does not occur. The State Board of Education is empowered to waive this requirement upon evidence provided by the local administrative units that compliance will result in inefficient use of funds and that the overall per pupil expenditure from local funds for instructional purposes is no less than the overall per pupil expenditure from local funds for such purposes in the preceding fiscal year.

——PUBLIC EDUCATION HEALTH, PE, & ATHLETICS/FUND ALLOCATION

Sec. 28. Funds appropriated in this act to the State Department of Public Education for the development of health, physical education, and athletic activities shall be allocated by the State Board of Education to local administrative units on the basis of average daily membership in kindergarten through grade six.

——MAIDS AND JANITORS, AND PRINCIPAL'S CLERKS/ SALARY INCREASES

Sec. 29. Superintendents of the State's local public school units shall utilize funds appropriated for salary increases for State-funded janitor and maid employees, and also for State-funded clerical assistants in the offices of principals and superintendents, to assure that such employees shall receive cost-of-living salary increases on that portion of their salaries which is State-funded.

——YOUTH SERVICES/TEXTBOOKS FROM BOARD OF EDUCATION

Sec. 30. The State Board of Education is authorized to provide such school textbooks to the Division of Youth Services as may be required, with such costs to be absorbed by the funds appropriated for the purchase of high school and elementary textbooks, not to exceed twenty-five thousand dollars ($25,000) per year.

——DRIVER TRAINING AND SAFETY EDUCATION FUND/ADVANCES

Sec. 31. Funds appropriated in this act to the Department of Public Education may be advanced to the Special Fund for Driver Training and Safety Education during the 1977-79 biennium in accordance with Executive Budget Act procedure. However, when receipts from the annual vehicle registration tax collected under G.S. 20-88.1 which go into this special fund are sufficient to operate the Driver Training and Safety Education Program in each fiscal year of the 1977-79 biennium, any funds advanced to the special fund from the Department of Public Education shall be repaid from the special fund registration tax receipts prior to June 30 of each fiscal year. (See also Section 11 of this act.)

——READING PROGRAM/THREE ALTERNATIVES

Sec. 31.5. Funds appropriated in Section 2 of this act to the State Board of Education provide for the improvement of reading instruction in the public schools. These funds are to be allocated by the State Board of Education for implementation, in accordance with its plan, of the Primary Reading Program in the form of the model that was field tested in 1975-77, provided that up to three promising alternative approaches designed to meet the general purposes outlined in the State Board of Education 1976-77 Primary Reading Program Guidelines may be adopted in three local administrative units, one approach in each unit. Such alternatives will be funded on the same per classroom allocation level as Primary Reading Program classrooms.

The State Department of Public Education shall solicit and review alternative program proposals, and shall submit to the State Board of Education for approval recommendations concerning the three most promising alternative programs in sufficient time for implementation in school year 1977-78. After implementation, uniform evaluation procedures shall be utilized to assess the relative cost effectiveness of the Primary Reading Program and alternative programs, with results to be submitted to the General Assembly no later than April 1, 1979.

——OCCUPATIONAL EDUCATION/MAN-MONTHS

Sec. 31.10. The State Board of Education is authorized to allocate all new average daily membership (ADM) expansion funds for occupational education as man-months to implement the Board's equity formula.

——SCHOOL DROPOUTS/FUND ALLOCATION AND EXTENDED DAY PROGRAMS

Sec. 31.15. Funds appropriated to the State Board of Education for programs to help dropouts and potential dropouts shall be allocated to each of the local administrative units on an equitable basis. Each local board of education shall have the authority to establish extended day programs or provide programs within the regular school program for such students, using these funds.

——PUBLIC SCHOOL LIBRARIANS/NO FUNDING

Sec. 31.20. Notwithstanding G.S. 115-206.24. *Librarians for schools*, no funds are appropriated in Section 2 of this act for allocation to local school units for the employment of library personnel.

PART VII.——SPECIAL PROVISIONS——COMMUNITY COLLEGES

——BOOKS AND EQUIPMENT APPROPRIATIONS/REVERT AFTER ONE YEAR

Sec. 32. Appropriations made in this act to the Department of Community Colleges for equipment and library books are made for each year of the biennium, and all unencumbered appropriations shall revert to the General Fund 12 months after the close of the fiscal year for which they were appropriated. Encumbered balances or unliquidated obligations outstanding at the end of this period shall be handled in accordance with existing State budget policies.

——OPERATING APPROPRIATION/NOT USED FOR RECREATION EXTENSION

Sec. 33. Funds appropriated in this act to the Department of Community Colleges as operating expenses for allocation to the institutions comprising the Community College System shall not be used to support recreation extension courses. The financing of such courses by any institution shall be on a self-supporting basis and membership hours produced from such activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the State level.

——FULL-TIME EQUIVALENT TEACHING POSITIONS

Sec. 34. For the purpose of determining the Community College system-wide number of full-time equivalent teaching positions each year, the total curriculum and extension full-time equivalent student enrollment shall be divided by 23.

——BOARD OF EDUCATION REVISE FORMULA AMOUNTS

Sec. 35. Within the limits of the appropriations made in this act to the Department of Community Colleges, the State Board of Education may, with the approval of the Advisory Budget Commission, revise the formulas for allocating operating funds to the community colleges and technical institutes. For purposes of complying with this section, increases in any per unit formula amounts shall be offset by decreases in other per unit formula amounts to produce an equivalent reduction in expenditures.

——NEW METHOD OF COUNTING FULL-TIME EQUIVALENT STUDENTS

Sec. 35.5. The State Board of Education shall implement the concept of using student tuition receipts collected in the community colleges and technical institutes to determine full-time equivalent enrollments for budget purposes. For comparison purposes only, the Board shall maintain parallel data on both the method used in the 1976-77 fiscal year and this new method of counting curriculum full-time equivalents. The Board shall report its findings concerning these comparisons for the 1977-78 fiscal year to the Appropriations Committees of the 1977 General Assembly, Second Session 1978, and the Board shall report its findings concerning the comparisons for the 1978-79 fiscal year to the Appropriations Committees of the 1979 General Assembly.

——RECALL OF FUNDS DUE TO UNDERENROLLMENTS

Sec. 35.10. The State Board of Education shall exercise its authority to adjust budgets for each community college and technical institute due to enrollments under or over budgeted levels during the year. Every reasonable effort should be made to allocate funds to institutions that have demands to serve additional students by using funds from institutions that are underenrolled. Further, the board shall notify institutions of the manner and the means to be followed in effecting the budget increases or decreases resulting from enrollment changes at the time the initial allocations of funds are made for 1977-78 and for 1978-79.

——ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION

Sec. 36. Funds appropriated in this act to the Department of Community Colleges to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, on the basis of eight hundred fifty dollars ($850.00) for each full-time student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Education shall make such rules and regulations as are necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

——ANTICIPATED TUITION CHANGE/REDUCE APPROPRIATIONS

Sec. 36.5. G.S. 115A-26 authorizes the State Board of Education to fix and regulate tuition for students in Community Colleges and Technical Institutes. The appropriations in Section 2 of this act to the Department of Community Colleges have been adjusted to reflect additional income anticipated from higher tuition to be fixed by the Board, and during the 1977-79 biennium the Board shall be limited in its authority to fix tuition by this General Assembly action.

——ADULT HIGH SCHOOL EXTENSION PROGRAM

Sec. 36.10. Adult High School Extension Program funds appropriated to the Department of Community Colleges in Section 2 of this act shall not be shifted to other programs. These funds shall revert to the General Fund if unused in the Adult High School Extension Program.

——ASSOCIATE DEGREE NURSING PROGRAM

Sec. 36.15. From funds appropriated to the State Board of Education, Department of Community Colleges, in Section 2 of this act, a maximum allotment of forty thousand dollars ($40,000) shall be made to an institution entering the second year of an Associate Degree nursing program in 1977-78.

Sec. 36.20. (Moved to new Section 35.5.)

——FURTHER SUSPEND PERSONNEL POLICIES

Sec. 36.25. Community Colleges personnel policies suspended by S.L. 1975, c. 983, s. 51, are further suspended for two more years, until July 1, 1979.

PART VIII.——SPECIAL PROVISIONS——HIGHER EDUCATION

——WAKE FOREST AND DUKE MED. SCHOOL ASSISTANCE/FUNDING FORMULA

Sec. 37. Funds appropriated in this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-, second-, third- and fourth- year students in the school as of November 1, 1977, and November 1, 1978. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars ($8,000) for each such student, one thousand dollars ($1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the school, provided that the maximum aid given to any student from this fund in a given year shall not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at The University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars ($5,000) for each such student, five hundred dollars ($500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the school, provided that no individual student shall be awarded assistance from this fund in excess of two thousand dollars ($2,000) each year. In addition to this basic disbursement for each year of the 1977-79 biennium, a disbursement of one thousand dollars ($1,000) shall be made for each such student in the first-year, second-year and third-year classes to the extent that the enrollment of each of those classes exceeds 30 North Carolina students in the 1977-78 fiscal year. In the 1978-79 fiscal year, the additional disbursement of one thousand dollars ($1,000) shall be made for each such student in the first-year, second-year, third-year and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the schools and shall review the grants or awards to said eligible students. The Board of Governors shall promulgate regulations for determining which students are residents of North Carolina for the purposes of these programs.

The Board shall also make such regulations as it may deem desirable to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students towards personal health care in North Carolina giving special emphasis to family and community medicine.

——AID TO PRIVATE COLLEGES/PROCEDURE

Sec. 38. Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, G.S. 116-21, and G.S. 116-22. These funds are to provide up to two hundred dollars ($200.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget/chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be for the tuition grant program as defined in Section 38.1 of this act.

Sec. 38.1. In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending such institutions, there is hereby granted to each full-time North Carolina undergraduate student attending an approved institution, as defined in G.S. 116-22, the sum of three hundred dollars ($300.00) per academic year in 1977-78 and in 1978-79 which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules and regulations promulgated by the State Education Assistance Authority not inconsistent with this act. The State Education Assistance Authority shall not approve any grant until there has been received from an appropriate officer of the approved institution a certification that the student applying for the grant is an eligible student. Upon receipt of such certification in proper form, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved instutition on behalf, and to the credit, of such student.

In the event a student on whose behalf a grant has been paid shall not be enrolled and carrying a minimum academic load as of the 10th classroom day following the beginning of the school term for which such grant was paid, the institution shall refund to the State Education Assistance Authority the amount of grant paid on behalf of such student for such term. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether such institution has properly certified eligibility and enrollment of students and credited grants paid in the behalf of such students.

In the event there are not sufficient funds to provide each eligible student with a full grant, each eligible student shall receive a reduced but equal share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation. Any remaining funds shall revert to the General Fund.

Sec. 38.2. Expenditures made pursuant to Sections 38 and 38.1 of this act shall be used for secular educational purposes only. If any provisions of these sections or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect other provisions or applications of the sections which can be given effect without the invalid provision or application, and to this end the provisions of the sections are declared to be severable.

——GRANTS TO HOSPITALS/ESTABLISH CERTAIN RESIDENCIES

Sec. 39. Within the limits of the appropriations made in Section 2 of this act to the Board of Governors of The University of North Carolina, community hospitals are to be awarded grants in the amount of fifteen thousand dollars ($15,000) per year for each certified residency that is established and filled and that represents an increase over the number of certified residencies at those hospitals as of June 30, 1974, in the fields of family practice, internal medicine, pediatrics, and obstetrics and gynecology.

——CITY AND COUNTY BOARDS OF EDUCATION/EXPENSES

Sec. 39.5. G.S. 115-29, as it appears in the 1975 Cumulative Supplement to G.S. Volume 3A, is amended by rewriting the second paragraph to read as follows:

"Funds for the per diem, subsistence, and mileage for all meetings of county and city boards of education shall be provided from the current expense fund budget of the particular county or city."

——FUNDS FOR NEEDY STUDENTS FROM UNIV. TUITION INCREASES

Sec. 39.10. There are funds appropriated in Section 2 of this act to the Board of Governors of The University of North Carolina which become available as a result of the anticipation of general tuition increases. In each fiscal year of the 1977-79 biennium, to the extent that federal matching funds are available, three hundred forty-two thousand nine hundred sixty-four dollars ($342,964) of these funds may be used for aid to needy students according to policies adopted by the Board of Governors.

PART IX.——SPECIAL PROVISIONS——SALARIES AND BENEFITS

——AUTHORIZATION FOR ADMINISTRATION OF 6 1/2% SALARY INCREASES

Sec. 40. The Director of the Budget is authorized and empowered to transfer from the appropriations in Sections 2 and 3 of this act for salary increases of State employees paid from the General Fund and the Highway Fund, respectively, such amounts, including the employer's retirement and social security contributions, as may be required to increase salaries in effect on June 30, 1977, for all permanent employees by an average of six and one-half percent (6.5%) commencing July 1, 1977, rounded to conform to the steps in such salary ranges as may be adopted by the State Personnel Board. For an employee whose salary in effect on June 30, 1977, is not equal to a specific pay rate within the salary schedule effective on that date, the annual increase will be the amount applicable to the next lower pay rate.

Except for salaries specifically established in this act, State department secretaries and other exempt positions whose salaries are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be granted six and one-half percent (6.5%) salary increases commencing July 1, 1977.

The Director of the Budget is authorized and empowered to allocate, out of special operating funds or from sources other than tax revenues under which personnel are employed, sufficient funds to conform with the provisions of this section, provided necessary funds are made available by sponsoring agents. The Director of the Budget is further authorized to promulgate special rules and regulations to apply to salary increases for employees whose salaries are paid from interagency receipts, where payments for the services of such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations is not materially reduced as a result of these salary increases. Any question as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget and the Advisory Budget Commission.

Salaries for positions which are paid partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

The granting of the legislative salary increases under this section shall not affect the status of eligibility for automatic or merit salary increments or both for which the employees may be eligible during the 1977-79 biennium.

The salary ranges for all employees under the State Personnel Act shall be increased, so far as the maximums are concerned, by amounts corresponding to those of this legislative salary increase so that, after the salary increases provided for in this act are made, every employee will continue to have the same relative position with respect to salary increases and future increments as he would have had if the salary increases provided by this act had not been made.

The salary increases provided in this act to be effective July 1, 1977, shall not apply to persons separated from State service due to resignation, dismissal, reduction in force, death or retirement, whose last work day is prior to July 1, 1977.

Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments are authorized to increase the rate of pay of temporary State employees, subject to availability of funds in the particular agency or department and on an equitable basis, by pro rata amounts approximately equal to the six and one-half percent (6.5%).

——SIX AND ONE-HALF PERCENT INCREASE/EPA LEGISLATIVE EMPLOYEES

Sec. 40.3. The Legislative Services Office is authorized to increase the salaries of permanent nonelected employees of the General Assembly in effect on June 30, 1977, by six and one-half percent (6 1/2%) commencing July 1, 1977, rounded to the nearest whole dollar figure divisible by 12 and otherwise adjusted to conform with the relative levels of the Legislative Services Commission salary schedule. The granting of this legislative percentage salary increase shall not affect the status of employees' eligibility for automatic or merit increments.

——ADDITIONAL MERIT INCREMENT/STATE EMPLOYEES

Sec. 40.5. Funds are appropriated in Section 2 of this act to add an additional merit increment for employees subject to the State Personnel Act; the sum is based on the two-thirds funding provisions of G.S. 126-7. To administer this added step on a merit rather than an automatic basis, G.S.

126-7, as it appears in the 1976 Interim Supplement to the General Statutes, is amended by:

(1) deleting at the beginning of line 8 the words "intermediate salary step nearest to, but not exceeding, the middle" and inserting the words "third step" in lieu thereof;

(2) deleting in lines 30 and 31 the words "step nearest but not exceeding the middle" and inserting the words "third step" in lieu thereof;

(3) and deleting in line 34 the word "intermediate" and inserting the words "third step" in lieu thereof.

——SCHOOL BUS MECHANICS, AND PROPERTY & COST CLERKS/ADDED STEP

Sec. 40.6. Appropriations made in Section 2 of this act include funds to grant a seventh merit increment step to public school positions which are classified as School Bus Mechanics, and Property and Cost Clerks.

——JUDICIAL BRANCH OFFICIALS/SALARIES

Sec. 41. The annual salary, in each fiscal year, of the specified judicial branch official shall be as follows:

Judicial Branch Officials		Salary in 1977-78 & 1978-79
Chief Justice, Supreme Court		$44,430
Associate Justice, Supreme Court		43,408
Chief Judge, Court of Appeals		41,878
Judge, Court of Appeals		40,862
Judge, Superior Court		35,758
Chief Judge, District Court		29,513
Judge, District Court		28,372
Solicitor or District Attorney		32,565
Assistant Solicitor or Assistant District Attorney	an average of	20,616

The minimum salary of any assistant solicitor or assistant district attorney and assistant public defender shall be twelve thousand dollars ($12,000) per annum; provided, that on recommendation of the district attorney or the public defender with the approval of the Administrative Officer of the Courts the salaries of assistant district attorneys and assistant public defenders may be adjusted so long as the average salaries of assistant district attorneys and assistant public defenders in a judicial district do not exceed twenty thousand six hundred sixteen dollars ($20,616). Funds appropriated in Section 2 of this act for salary increases and employer's retirement and social security contributions thereof for permanent employees of the Judicial Department, except for those itemized in this section, are intended to provide salary increases commencing July 1, 1977, of the same percentage as that authorized for State employees subject to the Personnel Act by Section 40 of this act, rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

——ADDITIONAL EXPENSE ALLOWANCE FOR SUPERIOR COURT JUDGES/REPEAL

Sec. 41.1. The second paragraph of G.S. 7A-44, as it appears in the 1976 Interim Supplement to the General Statutes, is repealed.

——PUBLIC DEFENDERS/SALARY REQUIREMENT CHANGE

Sec. 41.2. The last sentence of the fourth paragraph of G.S. 7A-465, as it appears in the 1975 Cumulative Supplement to G.S. Volume 1B, is repealed.

——MAGISTRATES/INCREASE MAXIMUM SALARY

Sec. 41.3. The maximum salary of magistrates in G.S. 7A-172 is changed by deleting "ten thousand seven hundred seventy-six dollars ($10,776)" and inserting in lieu thereof "eleven thousand four hundred seventy-six dollars ($11,476)".

——COURTS ATTORNEYS/SALARIES STUDIED AND CLASSIFIED

Sec. 41.6. The Administrative Office of the Courts is requested, by July 1, 1978, to study the salaries of the Assistant District Attorneys in the Courts System and establish a classification and pay plan that conforms generally with the recommendations contained in a like study conducted by the Office of State Personnel of the salaries of attorneys in the Department of Justice.

——CLERKS OF COURT/SALARIES

Sec. 42. The schedule of salaries of clerks of superior courts beginning on line 5 of G.S. 7A-101, as it appears in the 1976 Interim Supplement to the General Statutes, is deleted and in lieu thereof the following schedule is substituted:

"Population	Salary
Less than 10,000	$11,798
10,000 to 19,999	14,904
20,000 to 49,999	17,700
50,000 to 99,999	20,244
100,000 to 199,000	23,196
200,000 and above	28,130".

——MOST OF COUNCIL OF STATE, INCLUDING LT. GOVERNOR/SALARIES

Sec. 42.6. G.S. 147-33, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by rewriting the first sentence to read as follows:

"The salary of the Lieutenant Governor shall be the same as for Superior Court Judges as set by the General Assembly in the Budget Appropriation Act."

Sec. 42.7. G.S. 147-35 is rewritten to read as follows:

"§ 147-35. *Salary of Secretary of State.*—The salary of the Secretary of State shall be the same as for Superior Court Judges as set by the General Assembly in the Budget Appropriation Act."

Sec. 42.8. G.S. 147-55 is rewritten to read as follows:

"§ 147-55. *Salary of Auditor.*—The salary of the State Auditor shall be the same as for Superior Court Judges as set by the General Assembly in the Budget Appropriation Act."

Sec. 42.9. G.S. 147-65 is rewritten to read as follows:

"§ 147-65. *Salary of State Treasurer.*—The salary of the State Treasurer shall be the same as for Superior Court Judges as set by the General Assembly in the Budget Appropriation Act."

Sec. 42.10. G.S. 106-11 is rewritten to read as follows:

"§ 106-11. *Salary of Commissioner of Agriculture.*—The salary of the Commissioner of Agriculture shall be the same as for Superior Court Judges as set by the General Assembly in the Budget Appropriation Act."

Sec. 42.11. G.S. 95-2, as it appears in the 1976 Interim Supplement to the General Statutes, is amended by rewriting the second sentence of the section to read as follows:

"The term of office of the Commissioner of Labor shall be four years, and the salary of the Commissioner of Labor shall be the same as for Superior Court Judges as set by the General Assembly in the Budget Appropriation Act."

Sec. 42.12. G.S. 58-6 is rewritten to read as follows:

"§ 58-6. *Salary of Commissioner of Insurance.*—The salary of the Commissioner of Insurance shall be the same as for Superior Court Judges as set by the General Assembly in the Budget Appropriation Act."

——ATTORNEY GENERAL AND SUPT. OF PUBLIC INSTRUCTION/SALARIES

Sec. 42.14. G.S. 114-7 is rewritten to read as follows:

"§ 114-7. *Salary of Attorney General.*—The salary of the Attorney General shall be the same as for Court of Appeals Judges as set by the General Assembly in the Budget Appropriation Act."

Sec. 42.15. G.S. 115-13 is rewritten to read as follows:

"§ 115-13. *Office and salary of State Superintendent of Public Instruction.*—The State Superintendent of Public Instruction shall keep his office in the Education Building in Raleigh, and his salary shall be the same as for Court of Appeals Judges as set by the General Assembly in the Budget Appropriation Act."

——NONELECTED DEPT. HEADS/GOVERNOR & ABC CHANGE SALARIES 20%

Sec. 42.20. The second paragraph of G.S. 143B-9, as it appears in 1974 Replacement Volume 3C of the General Statutes, is deleted in its entirety and the following is substituted in lieu thereof:

"The salary of the head of each of the principal State departments, except in those departments headed by popularly elected officers, shall upon the recommendation of the Governor, be set by the General Assembly; provided, however, that the Governor may with approval of the Advisory Budget Commission increase or decrease the salary of a new appointee by a maximum of twenty percent (20%) over or under the authorized salary of the appointee's immediate predecessor without action of the General Assembly, except that in the case of the Secretary of the Department of Human Resources, when such new appointee is a licensed physician, the salary may be set at a level comparable to that of physicians employed by the department. The salaries of elected officials shall be as prescribed by law."

——CABINET SECRETARIES/SALARIES

Sec. 42.25. The salaries of the Cabinet Secretaries shall be as follows:

Secretary, Department	Salary in 1977-78 and 1978-79
Secretary, Department of Administration	$39,900
Secretary, Department of Revenue	38,250

Secretary, Department of Crime Control and Safety	38,250
Secretary, Department of Correction	38,250
Secretary, Department of Commerce	38,250
Secretary, Department of Cultural Resources	38,250
Secretary, Department of Human Resources	57,108
Secretary, Department of Natural and Economic Resources	38,250
Secretary, Department of Transportation	38,250

——HIGHER EDUCATION ACADEMIC PERSONNEL/SALARIES AND LONGEVITY

Sec. 43. Funds provided in this act for salary increases to employees exempt from the State Personnel Act in higher educational institutions of The University of North Carolina Board of Governors are for two purposes:

(1) to provide an average annual increase of six and one-half percent (6 1/2%) in 1977-78 for university employees exempt from the State Personnel Act; and

(2) to provide additional salary increases to university employees exempt from the State Personnel Act in lieu of specific appropriations for automatic and merit salary increases and longevity payments as are provided for State employees subject to the Personnel Act and public school employees.

Funds appropriated for both of the above purposes are to be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used to establish any new positions.

——COMMUNITY COLLEGES PERSONNEL/SALARIES AND LONGEVITY

Sec. 44. Funds provided in Section 2 of this act for salary increases to community college institutional personnel are for three purposes:

(1) to provide an annual average increase of six and one-half percent (6 1/2%) in 1977-78 for all community college institutional personnel to be allocated to individuals according to rules and regulations established by the State Board of Education and may not be used to establish any new positions; and

(2) to provide salary increases to institutional personnel in lieu of specific appropriations of automatic and merit salary increases as are provided for State employees subject to the Personnel Act and public school employees. Such funds are to be allocated to individuals in accordance with rules and regulations established by the State Board of Education and may not be used to establish any new positions; and

(3) to provide longevity increases to eligible full-time institutional employees in accordance with the following plan:

Years of Aggregate Service	% of Gross Annual State Salary
15 - 19	2.25%
20 - 24	3.25%
25 and over	4.50%

The president of each institution shall be required to submit to the State Board of Education by July 1 of each year a list of eligible employees with their salaries and anniversary dates before funds are made available to the institutions from the reserve.

——PUBLIC SCHOOL PERSONNEL/LONGEVITY

Sec. 44.1. The funds appropriated in Section 2 of this act to the State Board of Education include five million five hundred ninety-eight thousand eight hundred ninety-five dollars ($5,598,895) and seven million five hundred five thousand four hundred fifty-four dollars ($7,505,454) for the fiscal years beginning July 1, 1977, and July 1, 1978, respectively, to provide a schedule of longevity payments for State-allotted public school personnel. These longevity payments shall be based on the same payment rates as allowed for State employees subject to the State Personnel Act and for service intervals beginning with 10 years for superintendents, associate and assistant superintendents, and classified principals and with 15 years for supervisors, teachers, property cost clerks, and school bus mechanics.

Any such payments shall not exceed the appropriation made to the State Board of Education for such purpose plus any available legislative salary increase funds for public school employees. Eligibility requirements for public school employees to receive these lump sum payments shall be those adopted by the State Personnel Commission for State employees as of January 1, 1976. The State Board of Education is directed to formulate rules and regulations necessary to carry out the provisions of this section.

——EMPLOYER SALARY-RELATED CONTRIBUTIONS

Sec. 45. Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts (other than gifts, including foundation funds), shall be paid from the same source as the source of the employee's salary. In those instances in which an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts (other than gifts, including foundation funds), required employer salary-related contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of such employee, and the remainder of the employer's requirement shall be paid from the same source which supplies the remainder of such employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of employee for hospital-medical insurance, longevity, and unemployment insurance, except that where the employee's salary is paid in whole or in part from gifts, including foundations, the source of such gifts must bear its proportional share of the employer's requirement for these purposes.

Any questions as to the applicability of the provisions of this section shall be resolved by the Director of the Budget and the Advisory Budget Commission.

——SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS

Sec. 46. The Director of the Budget is authorized and empowered to transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, such amounts as may be required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds are intended to be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

PART X.——SPECIAL PROVISIONS——GEN. GOVT. & TRANS., & OTHER

(Some Transportation special provisions are at the end of PART II)

——CULTURAL RESOURCES GRANTS

Sec. 47. New sections G.S. 121-12.1 and G.S. 121-12.2 are added to the General Statutes to read as follows:

"§ 121-12.1. *Grants-in-aid.*—Under the concepts of reorganization of State government, responsibility for administering appropriations for grants-in-aid by the State to private nonprofit organizations in the areas of history, art, and culture is hereby assigned to the Department of Cultural Resources. It shall be the responsibility of the Department of Cultural Resources to receive, analyze, and recommend to the Governor, the Advisory Budget Commission, and the General Assembly the disposition of any request for funding by or for any of these organizations, and to disburse under provisions of law any appropriations made to them. Appropriations for grants-in-aid to assist in the restoration of historic sites owned by private nonprofit organizations shall in addition be expended only in accordance with G.S. 121-11, G.S. 121-12 and G.S. 143-31.2.

"§ 121-12.2. *Procedures for preparing budget requests and expending appropriations for grants-in-aid.*—Requests for funding shall be submitted by these organizations to the Department of Cultural Resources. If received by any other department of State government they shall be forwarded to the Department of Cultural Resources. All such requests shall be subjected to the process described in G.S. 121-12.1 and included in the department's biennial budget request submitted in compliance with the Executive Budget Act.

The Department of Cultural Resources shall notify on a timely basis and in appropriate detail all those recipients of continuing appropriations as grants-in-aid of the requirements for submission of requests for appropriations for the ensuing fiscal period.

The Secretary of Cultural Resources is empowered and directed, in discharging the responsibilities herein assigned, to make regular and timely reviews, studies and recommendations concerning the operations and needs of these organizations for State funds, and to request from the applicants for grants and the recipients of grants, operating statements, audit reports and other information deemed appropriate."

——AIRPORT IMPROVEMENT GRANTS

Sec. 48. The Secretary of the Department of Transportation, upon the request of the Aeronautics Council, and with the approval of the Governor and the Advisory Budget Commission, is authorized and empowered to allocate grants from the appropriations for airport improvements made in Section 2 of this act.

——NORTH CAROLINA SYMPHONY GRANTS/ADMINISTRATION

Sec. 49. Grant-in-aid funds appropriated to the Department of Cultural Resources as a supplement to private funds for expenses incurred by the North Carolina Symphony Orchestra shall be the responsibility of and administered by the North Carolina Symphony Society, Inc., subject to audit and recommendations by the State Auditor.

In the appropriation made for administration of the North Carolina Symphony the Department of Cultural Resources shall be responsible for the expenditure of funds for administration and have authority over the employment of administrative personnel, subject to the provisions of G.S. Chapter 126. The department may seek the advice and assistance of the North Carolina Symphony Society, Inc., in administrative personnel actions.

——INSURANCE AUDITORS/EXPENSE CHANGE

Sec. 50. G.S. 58-63(3), as it appears in 1975 Replacement Volume 2B of the General Statutes, is amended by rewriting the second sentence to read as follows:

"Notwithstanding the provisions of G.S. 138-6, the Commissioner of Insurance is authorized to pay examiners an amount in lieu of traveling expenses equal to the rate charged to and collected from the companies, associations or orders."

——INSURANCE DEPT. SPECIAL FUND/TRANSFER TO GENERAL FUND

Sec. 50.1. After June 30, 1977, all proceeds from the sale of Department of Insurance publications and all fees collected from Department of Insurance company audits and examinations shall be deposited into the Department's General Fund budget account. On July 1, 1977, the undesignated cash balance in the Department's Special Fund shall revert to the General Fund; and after that date the designated portions of the Special Fund shall be transferred to the appropriate programs.

——TREE CONES AND SEEDS/SOME APPROPRIATED FUNDS NOT REVERT

Sec. 50.5. During the 1977-79 biennium, in the event that receipts for sale of tree seedlings in the Forest Tree Nursery Subprogram of the Department of Natural and Economic Resources are realized in full or exceeded, the Department of Natural and Economic Resources is authorized, upon approval by the Director of the Budget, to carry forward from one fiscal year to the next, for future purchase of tree cones and seed, a portion of the unexpended appropriations for the subprogram (Tree Seed Collections), up to a maximum of fifty thousand dollars ($50,000). If funds so carried forward are not spent in their entirety during the fiscal year, the unexpended balance, less the amount, if any, by which receipts for sale of tree seedlings are under-realized for that year, may again be carried forward to the next succeeding fiscal year with the approval of the Director of the Budget. In acting upon requests of the Department of Natural and Economic Resources to carry forward unexpended appropriations, the Director of the Budget shall be guided by the need to purchase tree cones and seed while they are available for purchase, for storage against the time when an insufficient supply is available.

——STATE WILDLIFE FUND/ SURPLUS RECEIPTS

Sec. 50.7. Any surplus receipts that may accumulate in the State Wildlife Fund, as determined by the Director of the Budget, may be expended by the State Wildlife Commission as approved by the Governor and Advisory Budget Commission.

——ARTIFICIAL REEF FISHING PROGRAM/CLOSE OUT

Sec. 50.10. G.S. 105-446.4, which set up the earmarking of part of the gas tax for the Artificial Reef Fishing Program, is repealed. The June 30, 1977, cash balance in the special fund that has the proceeds of G.S. 105-446.4 shall remain with the Department of Natural and Economic Resources (or its successor after reorganization) for the purpose of closing out the program. The cash balance in the special fund as of December 31, 1977, shall be transferred to the Highway Fund.

——SHOULDER PAVING/STUDY BY DEPARTMENT OF TRANSPORTATION

Sec. 50.15. Because paved shoulders have proven effective in reducing accidents on heavily traveled, narrow two-lane roads, the Department of Transportation is directed to study the need for shoulder paving and report its findings to the General Assembly by January 31, 1978.

——NATIONAL GUARD/PROHIBIT TRANSFER EXCESS TUITION FUNDS

Sec. 50.25. Any funds appropriated for National Guard tuition assistance, administered under G.S. Chapter 127A, Article 15, shall not be transferred to be used for other purposes. Any excess funds shall revert to the General Fund at the end of the fiscal year.

——SECRETARY OF STATE/CHANGE PUBLICATIONS COSTS

Sec. 50.30. G.S. 147-48, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by deleting the second sentence. This eliminates authority for discounts on the sale of laws and journals to licensed booksellers.

Sec. 50.31. G.S. 147-54.1, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by adding a new sentence at the end of the first paragraph, to read as follows:

"The Secretary may sell these publications at such prices as he deems reasonable; the proceeds of sale shall be paid into the State treasury."

——CLEAN WATER BONDS 1971/LOWER CAPE FEAR AUTHORITY ADVANCE

Sec. 50.35. The Secretary of Administration is authorized to pay, to the Lower Cape Fear Water and Sewer Authority, the sum of five hundred thousand dollars ($500,000) as an advance payment on grant number SBH-109, which grant was issued to the authority on February 20, 1974, pursuant to the North Carolina Clean Water Bond Act of 1971. This authorized advance payment is to be used to pay the costs of engineering design and related services which are prerequisite to construction of the authority's approved regional water supply project designed to serve Bladen, Brunswick, Columbus, New Hanover, and Pender Counties.

——UTILITIES COMMISSION/EXECUTIVE DIRECTOR

Sec. 50.40. Funds are appropriated in Section 2 of this act to the Department of Commerce, Utilities Commission. These funds have been adjusted to include the position of Executive Director of the Public Staff of the Utilities Commission established by S.L. 1977, c.468.

——PORTS AUTHORITY/PERSONNEL CONTROL BY SECRETARY OF COMMERCE

Sec. 50.45. To effectuate a further work force reduction and control over any possible expansion of personnel employed by the North Carolina Ports Authority, the first five sentences of G.S. 143-218(5)(recodified as G.S. 143B-457(5) by Chapter 198 of the 1977 Session Laws), as the section was rewritten by Chapter 65 of the 1977 Session Laws, are rewritten to read as follows:

"The Secretary of Commerce with the approval of the authority shall appoint such management personnel as he deems necessary to serve at his pleasure. The salaries of these personnel shall be fixed by the Governor with the approval of the Advisory Budget Commission. The Secretary of Commerce or his designee shall appoint, employ, dismiss and, within the limits of available

funding, fix the compensation of such other employees as he deems necessary to carry out the purposes of this Part."

——NAVIGATION AND PILOTAGE COMMISSIONS/MANAGEMENT BY COMMERCE

Sec. 50.46. In order to clarify control over the Navigation and Pilotage Commissions of the Department of Commerce, Section 6 of Chapter 198 of the 1977 Session Laws is hereby amended by deleting the words "Type II transfer" and inserting in lieu thereof the words "Type I transfer".

——JUVENILE PROBATION AND AFTERCARE/FUNDS

Sec. 50.50. The Administrative Officer of the Courts is directed to utilize federal Title XX funds in the operation of the juvenile probation and aftercare program beginning in fiscal year 1978-79.

The Department of Human Resources is directed to make sufficient funds available in the 1978-79 State Title XX plan to fund services to Title XX eligibles through the juvenile probation and aftercare program in the Administrative Office of the Courts.

——CHILD SUPPORT PROGRAM/FUNDS

Sec. 50.51. The Administrative Officer of the Courts is directed to utilize federal Title IV-D funds in the operation of the Child Support Program in the Office of the Superior Court Clerk beginning July 1, 1977. The Department of Human Resources is directed to make sufficient funds available to the Administrative Office of the Courts to fund services for Title IV-D eligibles.

——CRIMINAL CODE COMMISSION/FUNDS

Sec. 50.53. Of the funds appropriated in Section 2 of this act to the Department of Justice, eighty-six thousand dollars ($86,000) is to be available in each fiscal year of the 1977-79 biennium for the expenses of the Criminal Code Commission.

——OIL RECYCLING PROGRAM AND FACILITY

Sec. 50.55. The Director of the Budget with approval of the Advisory Budget Commission is authorized to utilize up to one million three hundred thousand dollars ($1,300,000) of funds appropriated for the 1977-79 biennium to establish an oil recycling program and facility.

The Department of Administration shall administer the program and facility, and from profits shall refund the total sum utilized from appropriated funds. Profits shall be used for no other purpose until utilized funds are repaid in full unless otherwise approved by the Advisory Budget Commission.

The recycled oil shall be made available for sale to units of the State of North Carolina and its political subdivisions at reduced rates.

——CONSULTANT LIMITATIONS/EXEMPT RESEARCH TRIANGLE INSTITUTE

Sec. 50.57. G.S. 143-64.24, as it appears in the 1975 Supplement to Volume 3C of the General Statutes, is amended in the second line by inserting between "commissions," and "or" the following: "the Research Triangle Institute,".

——AUTHORIZE GENERAL ASSEMBLY DRAFTING STAFF

Sec. 50.60. G.S. 120-32 is amended by adding a new subdivision (9) at the end to read as follows:

"(9) To establish a bill drafting division to draft bills at the request of members or committees of the General Assembly."

——STATE VEHICLES AND AIRCRAFT/LT. GOVERNOR AND SPEAKER

Sec. 50.61. The Lieutenant Governor and Speaker of the House shall have the right and authority to use any and all State-owned vehicles and aircraft when either or both are on government business.

——TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM/BENEFITS

Sec. 50.65. G.S. 135-5 is amended by the addition of a new subsection (y) to read as follows:

"(y) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1976, which shall become payable on July 1, 1977, and to each beneficiary on the retirement rolls as of July 1, 1977, which shall become payable on July 1, 1978, as otherwise provided in G.S. 135-5(o), shall be the current maximum four percent (4%) plus an additional two and one-half percent (2 1/2%) for the years beginning July 1, 1977, and July 1, 1978. The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

Sec. 50.66. G.S. 135-5 is further amended by the addition of a new subsection (z) to read as follows:

"(z) Increases in benefits paid in respect to members retired prior to July 1, 1975. From and after July 1, 1977, the monthly benefits to or on account of persons who commenced receiving benefits prior to July 1, 1975, shall be increased by seven percent (7%) thereof. This increase shall be calculated before monthly retirement allowances as of July 1, 1977, have been increased to the extent provided for in the preceding subsection (o). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

Sec. 50.67. G.S. 135-5(b5), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by rewriting the first four lines to read as follows:

"(b5) Service retirement allowance of members retiring on or after July 1, 1975, but prior to July 1, 1977. Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1975, but prior to July 1, 1977, a member shall receive a service retirement allowance computed as follows:".

Sec. 50.68. G.S. 135-5, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is further amended by the addition of a new subsection immediately after (b5) to read as follows:

"(b6) Service retirement allowances of members retiring on or after July 1, 1977. Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1977, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and fifty-five one hundredths percent (1.55%) of his average final compensation, multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs after his sixtieth and before his sixty-fifth birthday and prior to his completion of 30 or more years o creditable service, his retirement allowance shall be computed as in (1) above but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each

month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall receive not less than the benefit provided by G.S. 135-5(b)."

Sec. 50.69. G.S. 135-5(l), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting in line 20 after the word "of" and before the period "fifteen thousand dollars ($15,000)" and inserting in lieu thereof "twenty thousand dollars ($20,000)".

Sec. 50.70. G.S. 135-5(l), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is further amended by deleting from line 9 of subdivision (4) of the last paragraph "fifteen thousand dollars ($15,000)" and inserting in lieu thereof "twenty thousand dollars ($20,000)".

Sec. 50.71. There is to be provided from the Teachers' and State Employees' Retirement Fund sufficient funds for one additional cost-of-living increase in accordance with G.S. 135-5(o) not to exceed four percent (4%) payable in July 1978.

——FIREMEN'S PENSION FUND/BENEFITS

Sec. 50.72. G.S. 118-25, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended as follows:

(1) By deleting "fifty dollars ($50.00)" and inserting in lieu thereof "fifty-five dollars ($55.00)" on line 7.

(2) By rewriting the chart beginning on line 12 to read as follows:

"Retirement Age	Amount	Retirement Age	Amount
55	$41.00	58	$49.00
56	43.00	59	52.00
57	46.00	60 and above	55.00".

(3) By adding a new paragraph immediately following the chart, to read as follows:

"The monthly pension of any retired fireman who received a pension prior to July 1, 1977, shall be increased by five dollars ($5.00) as of July 1, 1977."

(4) By deleting "fifty dollars ($50.00)" and inserting in lieu thereof "fifty-five dollars ($55.00)" on line 14 of the second paragraph.

(5) By deleting "January 1, 1960" and inserting in lieu thereof "July 1, 1977" on line 15 of the second paragraph.

(6) By adding a new paragraph after the last sentence of the second paragraph, to read as follows:

"Any member who is totally and permanently disabled while in the discharge of his official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of his official duties and who leaves the fire service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of fifty dollars ($50.00) per month beginning the first month after his fifty-fifth birthday. All disabilities are subject to the approval of the board of trustees who may appoint physicians to examine and/or evaluate the disabled member prior to his

approval annually and at their discretion. Any disabled member shall not be required to make a monthly payment of five dollars ($5.00) as required by G.S. 118-24."

Sec. 50.73. G.S. 118-31 is rewritten to read as follows:

"§ 118-31. *Effect of member being six months delinquent in making monthly payments.*—Any member who becomes six months delinquent in making monthly payments as required by G.S. 118-24 of this Article by the tenth of the month with respect to which said payment shall be due shall forfeit his membership in the fund."

PART XI.——SPECIAL PROVISIONS——APPROPRIATIONS ACT ——1979-81 BUDGET FORMAT

Sec. 51. Except as otherwise provided in G.S. Chapters 115, 115A, and 116, the recommended 1979-1981 budget submitted by the Director of the Budget to the General Assembly shall be itemized by primary objects of expenditure and receipts. The budget shall be accompanied by an itemized schedule of the additional positions recommended.

——EXECUTIVE BUDGET ACT REFERENCE

Sec. 52. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

——EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY 77-79

Sec. 52.10. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1977-79 biennium, the textual provisions of this act shall apply only to funds appropriated for, and activities occurring during, the 1977-79 biennium.

——SEVERABILITY CLAUSE

Sec. 53. If any section or provision of this act be declared unconstitutional or invalid by the courts, the same shall not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

——CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE

Sec. 53.10. The series of captions used in this act (the descriptive phrases in all capital letters identified by parts numbered with Roman numerals or preceded by five hyphens) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or intent of the text of the act.

——EFFECTIVE DATE

Sec. 54. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 57

CHAPTER 803

AN ACT TO PRESCRIBE RULES FOR THE CONDUCT OF AUCTION SALES OF PERSONAL PROPERTY BY SCHOOL BOARDS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of G.S. 115-126 as it appears in the 1975 Supplement to Volume 3A of the General Statutes is rewritten to read as follows:

"(b) When in the opinion of any county board of education, or of any board of education for any city administrative unit, the use of any property, other than real property, owned or held by such board is unnecessary or undesirable for public school purposes, the board may sell such property either through the facilities of the North Carolina Department of Administration or at public auction.

If the property is to be sold at public auction, the sale shall be held at that place within that county or city administrative unit and at that time which are designated by the board. A notice of sale shall be published at least once, not less than seven nor more than 15 days before the date of the sale, in a paper of general circulation in the county where the personal property is to be sold. The notice of sale shall adequately identify the property to be sold so as to acquaint prospective bidders with the nature and location of the property and shall set out the date, time, place and terms of sale.

The personal property shall be present at the time and place of the sale, unless the board determines that the nature, condition or use of the property makes it impractical to have the property present. If the property is not to be present at the time and place of sale, reasonable opportunity shall be afforded to prospective buyers to inspect the property prior to the sale, and the notice of sale shall include notice of the time and place where an inspection of the property may be made.

The board shall designate the person to conduct the sale. If the person conducting the sale is an officer or employee of the board, he shall receive no additional compensation for his services in conducting the sale; any other person shall receive such fee as may be agreed upon with the board but in no case to exceed five percent (5%) of the proceeds of the sale.

The sale may be postponed (1) when there are no bidders; or (2) when in the judgment of the person conducting the sale the number of prospective bidders is substantially decreased by inclement weather or by other casualty; or (3) when the person designated to conduct the sale is unable to hold the sale because of illness or other good reason; or (4) when other good cause exists. If the sale is postponed, the board shall readvertise and schedule and hold the sale at a later time, subject to the same conditions governing the originally scheduled sale.

Title to the property so sold shall not pass by reason of such sale until the sale has been confirmed by the board and the purchaser has complied with the terms of his bid. The proceeds of such sale shall be paid to the treasurer of the school fund of such county or city administrative unit."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 185

CHAPTER 804

AN ACT TO INCLUDE FIVE YEARS' EXPERIENCE AS AN ACCOUNTANT IN G.S. 93-12(5).

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-12(5) as the same appears in the 1975 Cumulative Supplement to Volume 2C is hereby amended on line 18 of the second paragraph, after the words "Contract Audit Agency" by adding the words "on the field staff of the office of the Treasurer of the State of North Carolina, or on the field staff of the Audit Agency of the North Carolina Department of Human Resources, or as a tax auditor of the North Carolina Department of Revenue or".

Sec. 2. G.S. 93-12(5) as the same appears in the 1975 Cumulative Supplement to Volume 2C is hereby amended on line 10 of the second paragraph, after the words, "given by the Board," by adding the words, "shall have practiced as an accountant as defined in G.S. 93-1(a) for a period of at least five years, or".

Sec. 3. The provisions of this act shall terminate and expire on and as of July 1, 1981.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 241

CHAPTER 805

AN ACT TO REGULATE THE SETTING OF STEEL TRAPS IN PENDER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful in Pender County for any person, firm or corporation to set or possess any steel traps of any type or take any animal caught in any steel trap on any lands, except as hereinafter provided.

Sec. 2. It shall be lawful for any person, firm or corporation to set or possess steel traps and take animals therefrom, provided not otherwise prohibited by law, on his own land. It shall be lawful for any person, firm or corporation to set or possess steel traps and take animals therefrom on leased or sublet lands in Pender County provided:

(a) There is recorded in the public registry of Pender County a written lease between the owner or lessor of lands and his lessee, which lease shall contain in clear terms permission to the lessee to trap on the lands described in said lease.

(b) Any person not specifically named in said lease as the grantee of the right to trap shall not be deemed to have authority to trap on any lands described in said lease.

Sec. 3. On any lands upon which steel traps are placed, notices, signs or posters measuring not less than 10 inches by 12 inches shall be conspicuously posted on such lands not more than 500 yards apart close to and along the boundaries notifying all who come onto said lands that steel traps are in use. At least one such notice, sign, or poster shall be posted on each side of such land, and one at each corner thereof, provided that said corner can be reasonably ascertained.

Sec. 4. Any person who shall multilate, destroy or take down any trapping notice, sign or poster on the lands of another shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100.00).

Sec. 5. It is the intent and purpose of this act to prohibit any person, firm or corporation from setting or using steel traps of any type on lands in Pender County unless used on lands owned by the trapper or unless used on lands leased as hereinabove provided.

Sec. 6. Violation of this act shall be a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) or more than two hundred dollars ($200.00), or by imprisonment of not more than 30 days, or by both fine and imprisonment, in the discretion of the court.

Sec. 7. This act shall be enforced by North Carolina Wildlife Protectors and all other law enforcement officers.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 485 **CHAPTER 806**

AN ACT TO INCREASE REPRESENTATION ON THE OSHA ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-134(a), as it appears in Volume 2C of the General Statutes, is hereby amended to read as follows:

"§ 95-134. *Establishment of Advisory Council.*—(a) There is hereby established a State Advisory Council on Occupational Safety and Health consisting of 11 members, appointed by the commissioner, composed of three representatives from management, three representatives from labor, four representatives of the public sector with knowledge of occupational safety and occupational health professions and one representative of the public sector with knowledge of migrant labor. The commissioner shall designate one of the members from the public sector as chairman and all members of the State Advisory Council shall be selected insofar as possible upon the basis of their experience and competence in the field of occupational safety and health."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Labor to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 590

CHAPTER 807

AN ACT TO AMEND G.S. 14-391 RELATING TO LOAN INTEREST ON HOUSEHOLD FURNITURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-391(1) as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended by deleting the words and figure "six percent (6%)" and inserting in lieu thereof the words "permitted by law".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 650

CHAPTER 808

AN ACT TO AUTHORIZE THE USE OF POWELL BILL FUNDS FOR BIKEWAY PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-41.3 is hereby amended by changing the period at the end of the first paragraph and inserting a comma in lieu thereof and adding the following: "or for the planning, construction and maintenance of bikeways located within the rights of way of public streets and highways."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 659

CHAPTER 809

AN ACT TO AMEND G.S. 14-254 TO PROVIDE MORE EFFECTIVE PROTECTION AGAINST CORPORATE OFFICERS WHO MISAPPLY CORPORATE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-254, as the same appears in 1969 Replacement Volume 1C of the General Statutes, is amended by deleting the words "officer of the corporation" and substituting in lieu thereof the word "person" on line 8 of the section.

Sec. 2. G.S. 14-254 is amended by designating the present section as subsection (a) and by adding a new subsection (b) as follows:

"(b) For purposes of this section, 'person' means a natural person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization."

Sec. 3. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 662 CHAPTER 810

AN ACT TO AMEND G.S. 14-288.8(c)(3) PROHIBITING WEAPONS OF MASS DEATH AND DESTRUCTION TO REPLACE THE TERMS OF "MACHINE GUN" AND "SAWED-OFF SHOTGUN" WITH MORE SPECIFIC DESCRIPTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-288.8(c)(3) is rewritten to read as follows:

"(3) Any semiautomatic firearm capable of firing 31 rounds or more without reloading, any firearm capable of fully automatic fire, any shotgun with a barrel of less than 18 inches in length or an overall length of less than 26 inches; or".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 679 CHAPTER 811

AN ACT AMENDING G.S. 159-48(c) TO AUTHORIZE EACH COUNTY TO BORROW MONEY AND ISSUE ITS BONDS UNDER THE LOCAL GOVERNMENT BOND ACT IN EVIDENCE THEREOF TO PROVIDE THE LOCAL SHARE OF THE COST OF IMPROVEMENTS TO SUBDIVISION AND RESIDENTIAL STREETS PURSUANT TO G.S. 153A-205.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-48(c), as it appears in 1976 Replacement Volume 3D of the General Statutes, is amended by inserting a new subdivision (5) which shall read as follows:

"(5) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205."

Sec. 2. G.S. 159-48(c), as it appears in 1976 Replacement Volume 3D of the General Statutes, is amended in the third line by striking out "(4)" and inserting in its place "(5)"; is further amended in the fourth line by striking out "(5)" and inserting in its place "(6)"; and is further amended by renumbering former subdivision "(5)" as "(6)".

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 784 CHAPTER 812

AN ACT TO PERMIT AN INDIVIDUAL DETAINED UNDER THE REASONABLE BELIEF THAT HE IS DRIVING UNDER THE INFLUENCE TO REQUEST AND BE ADMINISTERED A BREATH TEST BEFORE HIS ARREST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.2, as the same is found in the 1975 Replacement to Volume 1C of the General Statutes, is amended by adding a new subsection (i) to read as follows:

"(i) Notwithstanding any other provision of this Chapter, a person, who is stopped, detained or questioned by a law enforcement officer having reasonable

grounds to believe that the person has been driving or operating a motor vehicle on a highway or public vehicular area while under the influence of intoxicating liquor, may request and the law enforcement officer shall cause the administration of the chemical tests provided for in this section prior to the person's arrest for violating any provision of G.S. 20-138. Prior to the administration of chemical tests under this subsection, the person who is stopped, detained or questioned shall sign a form, to be supplied by the Division, confirming his request. The tests provided for in this subsection shall be administered under the same conditions as are provided in this section for the administration of chemical tests after arrest. The results of the tests administered under this subsection may be used in evidence in the trial of a charge arising out of the occurrence."

Sec. 2. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 872

CHAPTER 813

AN ACT TO AMEND CHAPTER 13 OF THE GENERAL STATUTES RELATING TO RESTORATION OF RIGHTS OF FEDERAL PRISONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 13.1 is hereby amended by adding a new subdivision (4) as follows:

"(4) With regard to any person convicted of a crime against the United States, the unconditional discharge of such person by the agency of the United States having jurisdiction of such person, the unconditional pardon of such person or the satisfaction by such person of a conditional pardon."

Sec. 2. G.S. 13-2 is hereby amended by adding at the end thereof the following:

"In the case of a person convicted of a crime against the United States, whose rights to citizenship have been restored according to G.S. 13-1, the following provisions shall apply:

(1) It shall be the duty of the clerk of the court in the county where such person resides, upon a showing by such person or his representative that the conditions of G.S. 13-1 have been met, to issue the certificate described in this paragraph. For purposes of this section, the fulfillment of the conditions of G.S. 13-1 shall be considered met upon the presentation to the clerk of any paper writing from the agency of the United States government which had jurisdiction over such person, which shows that the conditions of G.S. 13-1 have been met.

(2) The certificate described in this paragraph shall be filed by the Clerk of the General Court of Justice in the county in which such person resides as though it were a civil action bearing such person's name.

(3) The provisions of this section apply equally to conditional and unconditional pardons by the President of the United States, as well as unconditional discharges by the agency of the United States having jurisdiction over said person."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 152 **CHAPTER 814**

AN ACT TO PROVIDE A COMPENSATION SCHEDULE FOR TRUSTEES AND FIDUCIARIES WHEN THE CREATING INSTRUMENT DOES NOT SET OUT THE COMPENSATION, AND TO MAKE TECHNICAL AMENDMENTS TO CHAPTER 32.

The General Assembly of North Carolina enacts:

Section 1. Chapter 32 of the General Statutes is hereby amended by adding a new Article thereof to read as follows:

"ARTICLE 5.

"COMPENSATION.

"§ 32-50. *Compensation.*—(a) Express trust in writing. Unless otherwise provided in the instrument creating the trust relationship, a trustee under an express trust in writing, either inter vivos or testamentary, shall receive compensation for serving as a trustee as follows:

(1) Income compensation. An annual charge on gross income of:

a. five percent (5%) on the first five thousand dollars ($5,000) of income;

b. four percent (4%) on the next seven thousand five hundred dollars ($7,500) of income;

c. three percent (3%) on the next twelve thousand five hundred dollars ($12,500) of income;

d. two and one-half percent (2 1/2%) on the next twenty-five thousand dollars ($25,000) of income;

e. two percent (2%) on all income over fifty thousand dollars ($50,000).

(2) Compensation on principal consisting of personal property. An annual charge on the current value of that portion of the principal consisting of personal property, of:

a. four-tenths (4/10) of one percent (1%) on the first twenty-five thousand dollars ($25,000) of principal;

b. three-tenths (3/10) of one percent (1%) on the next twenty-five thousand dollars ($25,000) of principal;

c. two-tenths (2/10) of one percent (1%) on the next fifty thousand dollars ($50,000) of principal;

d. one-tenth (1/10) of one percent (1%) on the next one hundred thousand dollars ($100,000) of principal;

e. one-twentieth (1/20) of one percent (1%) on all principal over two hundred thousand dollars ($200,000).

(3) Maximum compensation. In addition to the minimum compensation set out in (1) and (2) above, the clerk of superior court at the written request of the trustee may in his discretion allow additional compensation in those cases where the trustee has rendered services beyond the routine services expected by a trustee but in no event shall the total annual aggregate compensation exceed five percent (5%) upon the gross income and the expenditures made in accordance with law, and five-tenths of one percent (0.5%) upon the current value of principal, both real and personal property, held as assets of the trust. In determining the amount of such additional compensation, if any, the clerk of superior

court shall consider the time, responsibility, and skill involved in the management activities of the trustee.

For purposes of determining the annual compensation on principal, the current value of the principal shall be determined as of the date of the first annual accounting and each year thereafter on the anniversary of that date by an appraisal of the trustee and certified to the clerk of superior court.

When computing the current value of real property for purposes of subdivision (3) of this subsection (a) the value of a usual dwelling house occupied by a beneficiary and lands reasonably necessary to the use and enjoyment thereof shall not be included.

This section is not applicable to trustees under bond issues, trustees of corporate trusts, employee benefit trusts, deeds of trusts of real property used for purposes of securing loans, or trusts for similar purposes.

(b) Effect of provisions in the instrument. Nothing in the provisions of this section shall be interpreted to prevent a corporate trustee from applying its regularly adopted schedule of compensation in effect and applicable at the time of performance of such services where the settlor or testator in the instrument creating the trust has so stipulated. In those instances where the compensation provision in the instrument creating the trust relationship provides that the compensation shall not exceed the maximum allowed by law this shall be construed as an expression of intention that the compensation shall not exceed the maximum compensation as provided in G.S. 32-50(a)(3), above.

(c) Other fiduciary relationships. Unless otherwise provided, fiduciaries other than trustees under express trusts shall be entitled to compensation fixed in the discretion of the clerk of superior court not to exceed five percent (5%) upon the amounts of receipts, including the value of all personal and real property when received, and upon the expenditures made in accordance with law. In determining the amount of such compensation, both upon the property received and upon expenditures made, the clerk of superior court shall consider the time, responsibility, trouble and skill involved in the management of such property. The clerk of superior court may allow compensation from time to time during the course of the management but the total amount allowed shall be determined on final settlement and shall not exceed the limit fixed in this subsection.

(d) Opening charge. Unless otherwise provided in the instrument, a successor trustee or a trustee of a testamentary trust who did not serve as a personal representative for the estate, may make a written request to the clerk of superior court for an allowance of an opening charge for his services as a trustee. The clerk of superior court may in his discretion allow such opening charge not to exceed one percent (1%) of the value of the principal, both real and personal, received. In determining the amount of such charge, if any, the clerk of superior court shall consider the time, responsibility, and skill involved in the opening of the trust or other fiduciary relationship.

(e) Closing charge. Unless otherwise provided in the instrument, a trustee of an express trust or other fiduciary may make a written request to the clerk of superior court for the allowance of a closing charge. If the clerk of superior court makes a written finding of fact that there are unusual circumstances supporting such a request he may in his discretion allow a closing charge not to exceed one percent (1%) of the principal, both real and personal. In determining the amount of such charge, if any, the clerk of superior court shall consider the

time, responsibility, and skill involved in the closing of the trust or other fiduciary relationship.

(f) Oral trust agreements. Unless otherwise provided in the oral trust agreement, a trustee under a valid oral trust agreement shall receive compensation in accordance with subsection (a).

(g) Principal less than ten thousand dollars ($10,000). Notwithstanding subsections (a), (b) and (c) above, when the gross value of the principal is ten thousand dollars ($10,000) or less, the clerk of superior court is authorized and empowered to fix the compensation to be received by the trustee or fiduciary in an amount as the clerk in his discretion, deems just and adequate.

(h) Compensation considered costs of management. All compensation, whether allocated to income or principal shall be charged as part of the costs of management and, upon allowance, may be retained out of the assets against creditors and all other persons claiming an interest.

(i) Charges for management; appeals. Nothing in this section shall be construed:

(1) to prevent the clerk of superior court from allowing reasonable sums for necessary charges and disbursements incurred in the management of the principal; or

(2) to abridge the right of any interested party to appeal an order of the clerk.

(j) Default or misconduct. No fiduciary or trustee who has been guilty of default or misconduct in the due execution of his office resulting in the revocation of his appointment shall be entitled to any compensation under the provisions of this Article.

(k) Income tax withholding. For the purpose of computing the compensation whenever any portion of the dividends, interest, rents or other amounts payable to a fiduciary or trustee is required by any law of the United States or other governmental unit to be withheld for income tax purposes by the person, corporation, organization or governmental unit paying the same, the amount so withheld shall be deemed to be income.

"§ 32-51. *Counsel fees allowable to attorneys serving as fiduciaries.*—The clerk of superior court, in his discretion, is authorized and empowered to allow counsel fees to an attorney serving as a fiduciary or trustee (in addition to the compensation allowed him as a fiduciary or trustee) where such attorney in behalf of the trust or fiduciary relationship renders professional services, as an attorney, which are beyond the ordinary routine of management and of a type which would reasonably justify the retention of legal counsel by any fiduciary or trustee not himself licensed to practice law.

"§ 32-52. *Applicability.*—The provisions of this Article shall apply to all trusts and fiduciary relationships created on or after January 1, 1978, and to all express trusts in writing existing on January 1, 1978 if the instrument does not contain any provision relating to compensation."

Sec. 2. G.S. 28A-23-3 as the same appears in the 1976 Replacement Volume 2A of the General Statutes is hereby amended in subsection (a) line 2 by deleting the words "testamentary trustees, collectors, or other fiduciaries" and inserting in lieu thereof the words "collectors or public administrators" and is further amended in subsection (a) lines 11 and 12 and in subsection (e) lines 1 and 2 by deleting the words "testamentary trustee, collector or other fiduciary" and inserting in lieu thereof the words "collector or public administrator"; and

is further amended in subsection (f) line 3 by deleting the words "trustee, collector or other fiduciary" and inserting in lieu thereof the words "collector or public administrator".

Sec. 3. G.S. 28A-23-4 as the same appears in the 1976 Replacement Volume 2A of the General Statutes is hereby amended on line 3 by deleting the words "testamentary trustee, collector, or other fiduciary" and inserting in lieu thereof the words "collector or public administrator"; and is further amended on lines 4 and 8 by deleting the words "or fiduciary" and inserting in lieu thereof the words ", collector or public administrator"; and is further amended on line 5 by deleting the words "or trust".

Sec. 4. Article 11 of Chapter 28A is hereby amended by adding a new section to read as follows:

"§ 28A-11-5. *Compensation.*—A collector shall be compensated in accordance with Article 23 of this Chapter."

Sec. 5. Article 12 of Chapter 28A is hereby amended by adding a new section to read as follows:

"§ 28A-12-8. *Compensation.*—A public administrator shall be compensated in accordance with Article 23 of this Chapter."

Sec. 6. G.S. 47-115.1(k) as the same appears in the 1976 Replacement Volume 2A of the General Statutes is hereby amended on line 6 by deleting the words "G.S. 28-170" and inserting in lieu thereof the words "G.S. 32-50(c)".

Sec. 7. G.S. 33-43 as the same appears in the 1976 Replacement Volume 2A of the General Statutes is hereby amended at the end thereof by adding the following "under the provisions of G.S. 28A-23-3."

Sec. 8. G.S. 32-4 is hereby repealed.

Sec. 9. G.S. 25-8-403 is hereby amended by adding a new subsection (4) thereof to read as follows:

"(4) Neither this section nor this Article shall be construed to repeal the provisions of Article 2 of Chapter 32 entitled the Uniform Act for the Simplification of Fiduciary Security Transfers, and if there is in any respect an inconsistency between Article 2 of Chapter 32 and this Article the provisions of the former shall control."

Sec. 10. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 504

CHAPTER 815

AN ACT TO PROVIDE A PROCEDURE FOR THE EXERCISE OF A PERSON'S RIGHT TO A NATURAL DEATH; AND TO ADD EXPRESSLY THE CRITERION OF IRREVERSIBLE CESSATION OF BRAIN FUNCTION TO THE OTHER CRITERIA FOR ESTABLISHING A PERSON'S DEATH.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is hereby amended by adding a new Article thereto to read as follows:

"ARTICLE 23.

"Right to Natural Death; Brain Death.

"§ 90-320. *General purpose of Article.*—(a) The General Assembly hereby recognizes that an individual's rights as a citizen of this State include the right

to a peaceful and natural death. This Article is to establish a procedure for the exercise of that right and to state expressly the extent of a physician's obligation to preserve the life of his patient in situations where artificial means may be used to sustain the circulatory and respiratory functions for an indefinite period.

(b) Nothing in this Article shall be construed to authorize any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

"§ 90-321. *Right to* a *natural death.*—(a) As used in this Article the term:

(1) 'Declarant' means a person who has signed a declaration in accordance with subsection (c);

(2) 'Extraordinary means' is defined as any medical procedure or intervention which in the judgment of the attending physician would serve only to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital function;

(3) 'Physician' means any person licensed to practice medicine under Article 1 of Chapter 90 of the laws of the State of North Carolina.

(b) If a person has declared, in accordance with subsection (c) below, a desire that his life not be prolonged by extraordinary means; and the declaration has not been revoked in accordance with subsection (e); and

(1) It is determined by the attending physician that the declarant's present condition is

a. terminal; and

b. incurable; and

(2) There is confirmation of the declarant's present condition as set out above in subdivision (b)(1) by a physician other than the attending physician;

then extraordinary means may be withheld or discontinued upon the direction and under the supervision of the attending physician.

(c) The attending physician may rely upon a signed, witnessed, dated and proved declaration:

(1) which expresses a desire of the declarant that no extraordinary means be used to prolong his life if his condition is determined to be terminal and incurable; and

(2) which states that the declarant is aware that the declaration authorizes a physician to withhold or discontinue the extraordinary means; and

(3) which has been signed by the declarant in the presence of two witnesses who state that they (i) are not related within the third degree to the declarant or to the declarant's spouse and (ii) would not be entitled to any portion of the estate of the declarant upon his death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it then provided, and (iii) are not the attending physician, an employee of the attending physician or of a health facility in which the declarant is a patient, or of a nursing home or any group care home in which the declarant resides and (iv) is not a person who has a claim against any portion of the estate of the declarant at the time of the declaration; and

(4) which has been proved before a clerk or assistant clerk of superior court who certifies substantially as set out in subsection (d) below.

(d) The following form is specifically determined to meet the requirements above:

'Declaration of A Desire For A Natural Death

'I _____, being of sound mind, desire that my life not be prolonged by extraordinary means if my condition is determined to be terminal and incurable. I am aware and understand that this writing authorizes a physician to withhold or discontinue extraordinary means.

'This the _____ day of _____, _____.

Signature _____

'I hereby state that the declarant, _____, signed the above declaration in my presence and that I am not related to the declarant by blood or marriage and I would not be entitled to any portion of the estate of the declarant under any existing will or codicil of the declarant, or as an heir under the Intestate Succession Act if the declarant died on this date without a will. I also state that I am not the declarant's attending physician or an employee of the declarant's attending physician, or an employee of a health facility in which the declarant is a patient or an employee of a nursing home or any group care home where the declarant resides. I further state that I do not now have any claim against the declarant.

Witness _____,

Witness _____.

The clerk or the assistant clerk may, upon proper proof, certify the declaration as follows:

'Certificate

'I, _____, Clerk (Assistant Clerk) of Superior Court for _____ County hereby certify that _____ and _____, witnesses, appeared before me and swore that they witnessed _____, declarant, sign the attached declaration; and also swore that at the time they witnessed the declaration (i) they were not related within the third degree to the declarant or to the declarant's spouse, and (ii) they would not be entitled to any portion of the estate of the declarant upon the declarant's death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it provided at that time, and (iii) they were not a physician attending the declarant or an employee of an attending physician or of a health facility in which the declarant was a patient or of a nursing home or any group care home in which the declarant resided, and (iv) they did not have a claim against the declarant. I further certify that I am satisfied as to the genuineness and due execution of the declaration.

This the _____ of _____, _____.

_____

Clerk (Assistant Clerk) of Superior Court for the County of _____.'

The above declaration may be proved by the clerk or the assistant clerk in the following manner:

(1) upon the testimony of the two witnesses; or

(2) if the testimony of only one witness is available, then

a. upon the testimony of such witness, and

b. upon proof of the handwriting of the witness who is dead or whose testimony is otherwise unavailable, and

c. upon proof of the handwriting of the declarant, unless he signed by his mark; or upon proof of such other circumstances as will satisfy the clerk or assistant clerk of the superior court as to the genuineness and due execution of the declaration.

(3) If the testimony of none of the witnesses is available, such declaration may be proved by the clerk or assistant clerk

a. upon proof of the handwriting of the two witnesses whose testimony is unavailable, and

b. upon compliance with paragraph c. of subdivision (2) above.

Due execution may be established, where the evidence required above is unavoidably lacking or inadequate, by testimony of other competent witnesses as to the requisite facts.

The testimony of a witness is unavailable within the meaning of this subsection when the witness is dead, out of the State, not to be found within the State, insane or otherwise incompetent, physically unable to testify or refuses to testify.

If the testimony of one or both of the witnesses is not available the clerk or the assistant clerk of superior court may, upon proper proof, certify the declaration as follows:

'Certificate

'I _____, Clerk (Assistant Clerk) of Court for the Superior Court of _____ County hereby certify that based upon the evidence before me I am satisfied as to the genuineness and due execution of the attached declaration by _____, declarant, and that the declarant's signature was witnessed by _____, and _____, who at the time of the declaration met the qualifications of G.S. 90-321(c)(3).

'This the _____ day of _____, _____.

_____

Clerk (Assistant Clerk) of Superior Court for _____County.'

(e) The above declaration may be revoked by the declarant, in any manner by which he is able to communicate his intent to revoke, without regard to his mental or physical condition. Such revocation shall become effective only upon communication to the attending physician by the declarant or by an individual acting on behalf of the declarant.

(f) The execution and consummation of declarations made in accordance with subsection (c) shall not constitute suicide for any purpose.

(g) No person shall be required to sign a declaration in accordance with subsection (c) as a condition for becoming insured under any insurance contract or for receiving any medical treatment.

(h) The withholding or discontinuance of extraordinary means in accordance with this section shall not be considered the cause of death for any civil or criminal purposes nor shall it be considered unprofessional conduct. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this section may interpose this section as a defense.

"§ 90-322. *Brain death.*—(a) If a person is comatose and there is no reasonable possibility that he will return to a cognitive sapient state, and:

(1) it is determined by the attending physician that the person's present condition is:

a. terminal; and

b. incurable; and

c. there has been an irreversible cessation of brain function; and

(2) there is confirmation of the person's present condition as set out above in this subsection, by a majority of a committee of three physicians other than the attending physician; and

(3) a vital function of the person is being sustained by extraordinary means; then, in addition to any other medically recognized criteria for determining death, the person may be pronounced dead.

(b) If a person has been pronounced dead in accordance with subsection (a) the extraordinary means to prolong life may be discontinued upon the direction and under the supervision of the attending physician at the request (i) of the person's spouse, or (ii) of a guardian of the person, or (iii) of a majority of the relatives of the first degree, in that order. If none of the above are available then at the discretion of the attending physician the extraordinary means may be discontinued upon the direction and under the supervision of the attending physician.

(c) If a person has been determined to be dead in accordance with subsection (a) and the person is a donor within the meaning of G.S. 90-220.1(3), or a gift of all or any part of the person's body has been made under the provisions of G.S. 90-220.2(b), the extraordinary means may be continued in order to facilitate the purposes of the Uniform Anatomical Gift Act.

(d) The discontinuance of such extraordinary means shall not be considered the cause of death for any civil or criminal purpose nor shall it be considered unprofessional conduct. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this section may interpose this section as a defense."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 712 CHAPTER 816

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Cary, as enacted by Section 1 of Chapter 868 of the Session Laws of 1971, is amended as follows:

(a) Section 3.9(f) of Article III is amended by deleting the words and punctuation "a Town Engineer,";

(b) Article III is amended by adding at the end a new Section 3.16 reading as follows:

"Sec. 3.16. Terms of commissions, committees and boards. The town council is authorized to fix the terms of members of all commissions, committees and boards of the town regardless of the terms established by General Statute or other law for particular commissions, committees or boards; to appoint the chairman or other presiding officer of each commission, committee or board of the town, regardless of the provisions of any General Statute or other law; and

to limit the number of terms which any person may serve on any commission, committee or board of the town."

(c) Section 6.4 of Article VI is amended by deleting from the second paragraph the words "in a residential zone";

(d) Section 9.3 of Article IX is amended by rewriting the same to read as follows:

"Sec. 9.3. Underground utilities. In addition to the powers now or hereafter granted to municipalities by law, the town council by ordinance may require that all utility or other pipes, wiring, conduits, cables, and fixtures installed after the adoption of such ordinance within the planning and zoning jurisdiction of the town be installed underground, whether or not the same are installed in public rights-of-way."

(e) Article X is amended by deleting all of Section 10.1 and by renumbering Section 10.2 as Section 10.1.

Sec. 1½. Chapter 527 of the Session Laws of 1977, as enacted by House Bill 1295, is amended by deleting from the second line of Section 1 and from the third line of Section 2 the word "County" and by inserting in lieu thereof in each instance the words "and Rockingham County".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 1334 CHAPTER 817

AN ACT TO AMEND G.S. 50-6 TO PROVIDE THAT A PLEA OF RECRIMINATION SHALL NOT BE A BAR TO A PARTY OBTAINING A DIVORCE ON THE GROUND OF ONE YEAR SEPARATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-6, as it appears in the 1976 Replacement of Volume 2A, is amended by adding the following sentences at the end thereof:

"A plea of *res judicata* or of recrimination with respect to any provision of G.S. 50-5 shall not be a bar to either party obtaining a divorce on this ground: Provided that no final judgment of divorce shall be rendered under this section until the court determines that there are no claims for support or alimony between the parties or that all such claims have been fully and finally adjudicated."

Sec. 2. This act shall become effective August 1, 1977, and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 320 **CHAPTER 818**

AN ACT TO AMEND SECTION 143B-394 OF THE GENERAL STATUTES TO INCREASE TO 20 THE MEMBERS OF THE COUNCIL ON THE STATUS OF WOMEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-394, as the same appears in the 1975 Supplement to Volume 3C of the General Statutes, is hereby amended by rewriting the first paragraph to read as follows:

"§ 143B-394. *Council on the Status of Women-members; selection; quorum; compensation.*—The Council on the Status of Women of the Department of Administration shall consist of 20 members appointed by the Governor. The initial members of the council shall be the appointed members of the Council on the Status of Women three of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1978. Thirteen additional members shall be appointed in 1977, six of whom shall serve terms expiring June 30, 1978, and seven of whom shall serve terms expiring June 30, 1979. At the ends of the respective terms of office of the initial members of the council and of the 13 members added in 1977, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Members of the council shall be representative of age, sex, ethnic and geographic backgrounds."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 539 **CHAPTER 819**

AN ACT TO PROVIDE FOR THE CIVIL ABATEMENT OF NUISANCES INCLUDING OBSCENE MATTER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 19-1(a) of Article 1, Chapter 19, as the same appears in Volume 1C (1975) of the North Carolina General Statutes is rewritten to read as follows:

"§ 19-1(a). *What are nuisances under this Chapter.*—The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of intoxicating liquors, illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance;".

Sec. 2. G.S. 19-1(c) of Article 1, Chapter 19, as the same appears in Volume 1C (1975) of the North Carolina General Statutes is amended by inserting the words "or vehicle" immediately after the second comma on the

first line thereof and by inserting a comma immediately following the word "vehicle".

Sec. 3. Article 1 of Chapter 19 of the North Carolina General Statutes is hereby amended by adding the following sections designated as G.S. 19-1.1, G.S. 19-1.2, G.S. 19-1.3, G.S. 19-1.4, and G.S. 19-1.5, immediately following G.S. 19-1 and immediately preceding G.S. 19-2.

"§ 19-1.1. *Definitions.*—As used in this Chapter relating to illegal possession or sale of obscene matter or to the other conduct prohibited in G.S. 19-1(a), the following definitions shall apply:

(a) 'Knowledge' or 'knowledge of such nuisance' means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of lewdness, assignation, gambling, the illegal possession or sale of intoxicating liquor, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or prostitution which occur on the premises.

(b) 'Lewd matter' is synonymous with 'obscene matter' and means any matter:

(1) which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(2) which depicts patently offensive representations of:

a. ultimate sexual acts, normal or perverted, actual or simulated;

b. masturbation, excretory functions, or lewd exhibition of the genitals or genital area;

c. masochism or sadism; or

d. sexual acts with a child or animal.

Nothing herein contained is intended to include or proscribe any writing or written material, nor to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, educational, or scientific value.

(c) 'Lewdness' is synonymous with obscenity and shall mean the act of selling, exhibiting or possessing for sale or exhibition lewd matter.

(d) 'Matter' means a motion picture film or a publication or both.

(e) 'Motion picture film' shall include any:

(1) film or plate negative;

(2) film or plate positive;

(3) film designed to be projected on a screen for exhibition;

(4) films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(5) video tape or any other medium used to electronically reproduce images on a screen.

(f) 'Person' means any individual, partnership, firm, association, corporation, or other legal entity.

(g) 'Place' includes, but is not limited to, any building, structure or places, or any separate part or portion thereof, whether permanent or not, or the ground itself, but excluding a private dwelling place not used for a profit.

(h) 'Publication' shall include any book, magazine, pamphlet, illustration, photograph, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.

(i) 'Sale' means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer or possession of, lewd matter.

"§ 19-1.2. *Types of nuisances.*—The following are declared to be nuisances wherein obscene or lewd matter or other conduct prohibited in G.S. 19-1(a) is involved:

(a) any and every place in the State where lewd films are publicly exhibited as a predominant and regular course of business, or possessed for the purpose of such exhibition;

(b) any and every place in the State where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;

(c) any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a nuisance under this Article;

(d) any and every place of business in the State in which lewd publications constitute a principal or substantial part of the stock in trade;

(e) any and every lewd publication possessed at a place which is a nuisance under this Article;

(f) every place which, as a regular course of business, is used for the purposes of lewdness, assignation, gambling, the illegal possession or sale of intoxicating liquor, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or prostitution, and every such place in or upon which acts of lewdness, assignation, gambling, the illegal possession or sale of intoxicating liquor, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or prostitution, are held or occur.

"§ 19-1.3. *Personal property as a nuisance; knowledge of nuisance.*—The following are also declared to be nuisances, as personal property used in conducting and maintaining a nuisance under this Chapter:

(a) all moneys paid as admission price to the exhibition of any lewd film found to be a nuisance;

(b) all valuable consideration received for the sale of any lewd publication which is found to be a nuisance;

(c) all money or other valuable consideration received or used in gambling, prostitution, the illegal sale of intoxicating liquors or the illegal sale of substances proscribed under the North Carolina Controlled Substances Act, as well as the furniture and movable contents of a place used in connection with such prohibited conduct.

From and after service of a copy of the notice of hearing of the application for a preliminary injunction, provided for in G.S. 19-2.4 upon the place, or its manager, or acting manager, or person then in charge, all such parties are deemed to have knowledge of the contents of the restraining order and the use of the place occurring thereafter. Where the circumstantial proof warrants a determination that a person had knowledge of the nuisance prior to such service of process, the court may make such finding.

"§ 19-1.4. *Liability of successive owners for continuing nuisance.*—After notice of a temporary restraining order, preliminary injunction, or permanent injunction, every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of such property, created by a former owner, is liable therefor in the same manner as the one who first created it.

"§ 19-1.5. *Abatement does not preclude action.*—The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence."

Sec. 4. Article 1 of Chapter 19 of the North Carolina General Statutes is further amended by striking in its entirety the present G.S. 19-2 and inserting in lieu thereof the following sections:

"§ 19-2.1. *Action for abatement; injunction.*—Wherever a nuisance is kept, maintained, or exists, as defined in this Article, the attorney general, district attorney, or any private citizen of the county may maintain a civil action in the name of the State of North Carolina to abate a nuisance under this Chapter, perpetually to enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a nuisance under this Chapter; provided, however, that no private citizen may maintain such action where the alleged nuisance involves the illegal possession or sale of obscene or lewd matter.

If an action is instituted by a private person, the complainant shall execute a bond prior to the issuance of a restraining order or a temporary injunction, with good and sufficient surety to be approved by the court or clerk thereof, in the sum of not less than one thousand dollars ($1,000), to secure to the party enjoined the damages he may sustain if such action is wrongfully brought, not prosecuted to final judgment, or is dismissed, or is not maintained, or if it is finally decided that the temporary restraining order or preliminary injunction ought not to have been granted. The party enjoined shall have recourse against said bond for all damages suffered, including damages to his property, person, or character and including reasonable attorney's fees incurred by him in making defense to said action. No bond shall be required of the prosecuting attorney or the attorney general, and no action shall be maintained against the public official for his official action.

"§ 19-2.2. *Pleadings; jurisdiction; venue; application for preliminary injunction.*—The action, provided for in this Chapter, shall be brought in the superior court of the county in which the property is located. Such action shall be commenced by the filing of a verified complaint alleging the facts constituting the nuisance. After the filing of said complaint, application for a preliminary injunction may be made to the court in which the action is filed which court shall grant a hearing within 10 days after the filing of said application.

"§ 19-2.3. *Temporary order restraining removal of personal property from premises; service, punishment.*—Where such application for a preliminary injunction is made, the court may, on application of the complainant showing good cause, issue an ex parte temporary restraining order in accordance with G.S. 1A-1, Rule 65(b), preserving the status quo and restraining the defendant and all other persons from removing or in any manner interfering with any evidence specifically described, or in any manner removing or interfering with the personal property and contents of the place where such nuisance is alleged to exist, until the decision of the court granting or refusing such preliminary injunction and until further order of the court thereon. Nothing herein shall be interpreted to allow the prior restraint of the distribution of any matter or the sale of the stock in trade, but an inventory and full accounting of all business transactions involving alleged obscene or lewd matter thereafter shall be required.

Any person, firm, or corporation enjoined pursuant to this section may file with the court a motion to dissolve any temporary restraining order. Such a motion shall be heard within 24 hours of the time a copy of the motion is served on the complaining party, or on the next day the superior courts are open in the district, whichever is later. At such hearing the complaining party shall have the burden of showing why the restraining order should be continued.

In the event a temporary restraining order is issued, it may be served in accordance with the provisions of G.S. 1A-1, Rule 4, or may be served by handing to and leaving a copy of such order with any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place, or by such service under said Rule 4, delivery and posting. The officer serving such temporary restraining order shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance.

Any violation of such temporary restraining order is a contempt of court, and where such order is posted, mutilation or removal thereof, while the same remains in force, is a contempt of court, provided such posted order contains therein a notice to that effect.

"§ 19-2.4. *Notice of hearing on preliminary injunction; consolidation.*—A copy of the complaint, together with a notice of the time and place of the hearing of the application for a preliminary injunction, shall be served upon the defendant at least five days before such hearing. The place may also be served by posting such papers in the same manner as is provided for in G.S. 19-2.3 in the case of a temporary restraining order. If the hearing is then continued at the instance of any defendant, the temporary restraining order may be continued as a matter of course until the hearing.

Before or after the commencement of the hearing of an application for a preliminary injunction, the court, on application of either of the parties or on its own motion, may order the trial of the action on the merits to be advanced and consolidated with the hearing on the application for the preliminary injunction; provided, however, the defendant shall be entitled to a jury trial if requested.

"§ 19-2.5. *Hearing on the preliminary injunction; issuance.*—If upon hearing, the allegations of the complaint are sustained to the satisfaction of the court, the court shall issue a preliminary injunction restraining the defendant and any other person from continuing the nuisance and effectually enjoining its use thereafter for the purpose of conducting any such nuisance."

Sec. 5. Article 1 of Chapter 19 of the North Carolina General Statutes is further amended by rewriting G.S. 19-3 thereof as follows:

"§ 19-3. *Priority of action; evidence.*—(a) The action provided for in this Chapter shall be set down for trial at the first term of the court and shall have precedence over all other cases except crimes, election contests, or injunctions.

(b) In such action, an admission or finding of guilt of any person under the criminal laws against lewdness, assignation, prostitution, gambling, the illegal possession or sale of intoxicating liquors, or the illegal possession or sale of substances proscribed by the North Carolina Controlled Substances Act, at any such place, is admissible for the purpose of proving the existence of said nuisance, and is evidence of such nuisance and of knowledge of, and of

acquiescence and participation therein, on the part of the person charged with maintaining said nuisance.

(c) At all hearings upon the merits, evidence of the general reputation of the building or place constituting the alleged nuisance, of the inmates thereof, and of those resorting thereto, is admissible for the purpose of proving the existence of such nuisance."

Sec. 6. Article 1 of Chapter 19 of the General Statutes is further amended by rewriting G.S. 19-5 thereof as follows:

"§ 19-5. *Content of final judgment and order.*—If the existence of a nuisance is admitted or established in an action as provided for in this Chapter an order of abatement shall be entered as a part of the judgment in the case, which judgment and order shall perpetually enjoin the defendant and any other person from further maintaining the nuisance at the place complained of, and the defendant from maintaining such nuisance elsewhere within the jurisdiction of this State. Lewd matter, illegal intoxicating liquors, gambling paraphernalia, or substances proscribed under the North Carolina Controlled Substances Act shall be destroyed and not be sold.

Such order may also require the effectual closing of the place against its use thereafter for the purpose of conducting any such nuisance.

The provisions of this Article, relating to the closing of a place with respect to obscene or lewd matter, shall not apply in any order of the court to any theatre or motion picture establishment which does not, in the regular, predominant, and ordinary course of its business, show or demonstrate lewd films or motion pictures, as defined in this Article, but any such establishment may be permanently enjoined from showing such film judicially determined to be obscene hereunder and such film or motion picture shall be destroyed and all proceeds and moneys received therefrom, after the issuance of a preliminary injunction, forfeited."

Sec. 7. Article 1 of Chapter 19 of the General Statutes is further amended by rewriting G.S. 19-6 thereof as follows:

"§ 19-6. *Civil penalty; forfeiture; accounting; lien as to expenses of abatement; invalidation of lease.*—Lewd matter is contraband, and there are no property rights therein. All personal property, including all money and other considerations, declared to be a nuisance under the provisions of G.S. 19-1.3 and other sections of this Article, are subject to forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited or otherwise used. Such property including moneys may be traced to and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendant or defendants in legal proceedings brought pursuant to this Article, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a nuisance under this Article. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the General Funds of the city and county governments wherein such activity took place, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise, and as partial restitution for damages done to the public welfare; provided, however, that no provision of this Article shall authorize the recovery of any monies or gross income received from the sale of any book, magazine, or exhibition of any motion picture prior to

the issuance of a preliminary injunction. Where the action is brought pursuant to this Article, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to, reasonable attorney's fees and court costs.

If it is judicially found after an adversary hearing pursuant to this Article that a tenant or occupant of a building or tenament, under a lawful title, uses such place for the purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal intoxicating liquors or substances proscribed under the North Carolina Controlled Substances Act, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner."

Sec. 8. Article 1 of Chapter 19 of the General Statutes is further amended by rewriting Section 19-8 thereof as follows:

"§ 19-8. *Costs.*—The prevailing party shall be entitled to his costs. The court shall tax as part of the costs in any action brought hereunder such fee for the attorney prosecuting or defending the action or proceedings as may in the court's discretion be reasonable remuneration for the services performed by such attorney."

Sec. 9. Article 1 of Chapter 19 of the General Statutes is further amended by adding two new sections thereto which shall be designated as G.S. 19-8.1 and G.S. 19-8.2 and which shall read as follows:

"§ 19-8.1. *Immunity.*—The provisions of any criminal statutes with respect to the exhibition of, or the possession with the intent to exhibit, any obscene film shall not apply to a motion picture projectionist, usher, or ticket taker acting within the scope of his employment, provided that such projectionist, usher, or ticket taker: (1) has no financial interest in the place wherein he is so employed, and (2) freely and willingly gives testimony regarding such employment in any judicial proceedings brought under this Chapter, including pretrial discovery proceedings incident thereto, when and if such is requested, and upon being granted immunity by the trial judge sitting in such matters.

"§ 19-8.2. *Right of entry.*—Authorized representatives of the Commission for Health Services, any local health department or the Department of Human Resources, upon presenting appropriate credentials to the owner, operator, or agent in charge of a place described in G.S. 19-1.2, are authorized to enter without delay and at any reasonable time any such place in order to inspect and investigate during the regular hours of operation of such place."

Sec. 10. Article 1 of Chapter 19 of the General Statutes is further amended by adding a new section thereto which shall be designated as G.S. 19-8.3 and which shall read as follows:

"§ 19-8.3. *Severability.*—If any section, subsection, sentence, or clause of this Article is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portion of this Article. It is hereby declared that this Article would have been passed, and each section, sentence, or clause thereof, irrespective of the fact that any one or more sections, subsections, sentences or clauses might be adjudged to be unconstitutional, or for any other reason invalid."

Sec. 11. This act shall become effective on August 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 686 CHAPTER 820

AN ACT TO AMEND G.S. 153A-334 AND G.S. 160A-375 TO PROVIDE AN ADDITIONAL REMEDY FOR THE ENFORCEMENT OF SUBDIVISION ORDINANCES AND TO FURTHER PROTECT THE PURCHASER OF LAND IN AN UNAPPROVED SUBDIVISION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-334 is hereby amended by rewriting the last sentence thereof to read as follows:

"The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance."

Sec. 2. G.S. 160A-375 is hereby amended by rewriting the last sentence thereof to read as follows:

"The city may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 704 CHAPTER 821

AN ACT TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION, OFFICE OF PERSONNEL, TO ESTABLISH THE PERSONNEL CLASSIFICATION OF PARALEGAL.

The General Assembly of North Carolina enacts:

Section 1. The Department of Administration, Office of State Personnel, is hereby authorized and directed to establish the personnel classification of paralegal with such duties and responsibilities as may be assigned to it. For purposes of this act, a paralegal shall be defined as a person who has received formal classroom instruction as a research assistant or lawyer's assistant or a law student in a law school approved by the Council of the North Carolina State Bar and is trained to assume responsibilities as an integral member of a legal staff.

Any person employed as a paralegal pursuant to this act shall be subject to the provisions of Chapter 126 of the General Statutes relating to the State Personnel System.

Sec 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 725

CHAPTER 822

AN ACT TO CREATE IN THE DEPARTMENT OF ADMINISTRATION AN ADVOCACY COUNCIL FOR THE MENTALLY ILL AND DEVELOPMENTALLY DISABLED.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B of the General Statutes, as the same is found in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is amended by adding a new Part 13, immediately after Part 12, to read as follows:

"PART 13.

"Advocacy Council for the Handicapped.

"§ 143B-399. *Advocacy Council for the Mentally Ill and Developmentally Disabled: creation; powers; duties.*—There is hereby created in the Department of Administration an Advocacy Council for the Mentally Ill and Developmentally Disabled. The council shall have the following functions and duties:

(1) to provide for and supervise a statewide program of protection and advocacy in accordance with Section 113 of Public Law 94-103, Developmental Disabilities Services and Facilities Construction Act, as amended;

(2) to pursue legal, administrative, or other appropriate remedies to insure the protection of the rights of all developmentally and mentally disabled persons who are receiving treatment, services, or habilitation from any State, local, or area program;

(3) to review and recommend changes in all laws, rules, regulations, programs and policies of this State or any agency or subdivision thereof to insure the rights of the mentally ill and developmentally disabled are safeguarded;

(4) to investigate complaints concerning the violation of the rights of the mentally ill and developmentally disabled and to take appropriate action;

(5) to contract with public agencies or private nonprofit corporations to fulfill any of the functions and duties provided herein;

(6) to provide an annual report to the Governor and the Secretary of Administration on the status, effectiveness, and needs of the protection and advocacy program; and

(7) to perform such other functions as are necessary to protect the rights of the mentally ill and developmentally disabled or as may be assigned by the Secretary of Administration.

"§ 143B-400. *Advocacy Council for the Mentally Ill and Developmentally Disabled: members; selection; quorum; compensation.*—The Advocacy Council for the Mentally Ill and Developmentally Disabled, of the Department of Administration, shall consist of 11 members. The composition and appointment of the council shall be as follows:

Three members appointed by the Governor from legal, citizen, or advisory groups; two members appointed by the Governor who are parents of developmentally disabled persons; one member appointed by the Governor who is developmentally disabled; one member appointed by the Governor who has been a volunteer advocate for the developmentally disabled.

Two members appointed by the Speaker of the House from the members of the House of Representatives, who have demonstrated an interest in the mentally ill and developmentally disabled.

Two members appointed by the President of the Senate from the members of the Senate, who have demonstrated an interest in the mentally ill and developmentally disabled.

Provided no members shall be providers of services to the mentally ill and developmentally disabled or representatives of public agencies.

The Governor shall designate a member of the council to serve as chairman at the pleasure of the Governor.

Initial appointments shall be made as soon as practicable after the effective date of this act but no later than July 1, 1977, for terms to expire June 30, 1980. At the end of the terms of the initial members, the appointment of the successors of the members appointed by the Governor shall be for terms of four years and until their successors are appointed and qualify. The appointment of the successors of the initial members appointed by the Speaker of the House and President of the Senate shall be for terms of two years and until their successors are appointed and qualify. Appointment to fill a vacancy on the council created by resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor may remove any member of the council appointed by the Governor.

Members of the council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5, or travel and subsistence expenses under G.S. 120-3.1 as appropriate.

The council shall meet at least once a quarter and at such other times as called by the chairman or upon written request of at least six members. A majority of the council shall constitute a quorum for the transaction of business.

All clerical and other services required by the council shall be supplied by the Secretary of Administration.

The staff of the Developmental Disabilities Council of the Department of Human Resources shall provide additional planning assistance when requested by the Advocacy Council."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 808 **CHAPTER 823**

AN ACT TO ADD THE PRESIDENT OF THE STUDENT GOVERNMENT OR THE CHAIRMAN OF THE EXECUTIVE BOARD OF THE STUDENT BODY OF EACH COMMUNITY COLLEGE, TECHNICAL INSTITUTE, AND INDUSTRIAL EDUCATION CENTER ESTABLISHED PURSUANT TO G.S. 115-A TO THE BOARD OF TRUSTEES OF SAID INSTITUTIONS AS *EX OFFICIO* NONVOTING MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-7(a) is hereby amended by substituting the word "thirteen" for the word "twelve" in the first sentence.

Sec. 2. A new paragraph, to be designated G.S. 115A-7(a), Group Four-, is hereby added immediately following G.S. 115A-7(a), Group Three-, and immediately preceding G.S. 115A-7(b), to read as follows:

"Group Four- The president of the student government or the chairman of the executive board of the student body of each community college and technical institute established pursuant to G.S. 115A shall be an *ex officio* nonvoting member of the board of trustees of each said institution."

Sec. 3. G.S. 115A-7(b) is hereby rewritten to read as follows:

"(b) Each industrial education center established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of nine members, four of whom shall be selected by the agencies provided for by Group One- in subsection (a) above; four by the agencies provided for by Group Two- above; and one as provided for by Group Four- above."

Sec. 4. G.S. 115A-7(c) is hereby rewritten to read as follows:

"(c) All trustees shall be residents of the administrative area of the institution for which they are selected or of counties contiguous thereof with the exception of members provided for in G.S. 115A-7(b) and G.S. 115A-7(a) Group Four-."

Sec. 5. G.S. 115A-8 is hereby amended by inserting the words, "with the exception of the *ex officio* member", immediately following the word "years" and immediately preceding the word "except" in the first sentence.

Sec. 6. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 893

CHAPTER 824

AN ACT TO AMEND CHAPTERS 66 AND 148 OF THE GENERAL STATUTES CONCERNING STATE POLICY ON PRISON LABOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-26(a)(1) is hereby rewritten to read as follows:

"(1) The project or service involves a type of work by which inmates can develop a skill to better equip themselves to return to society;".

Sec. 2. G.S. 148-26(a)(3) is hereby repealed in its entirety.

Sec. 3. G.S. 148-26(e) is hereby amended by adding a new sentence at the end thereof to read as follows:

"Such work may include but is not limited to work with State or local government agencies in cleaning, construction, landscaping and maintenance of roads, parks, nature trails, bikeways, cemeteries, landfills or other government-owned or operated facilities."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. B. 900 **CHAPTER 825**

AN ACT TO PROVIDE FOR THE APPOINTMENT OF MEMBERS TO THE PAMLICO COUNTY BOARD OF ALCOHOLIC CONTROL BY THE PAMLICO COUNTY BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provisions of law, all future appointments of members to the Pamlico County Board of Alcoholic Control shall be made by the Pamlico County Board of County Commissioners.

Sec. 2. All laws and clauses of laws inconsistent herewith are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

H. B. 604 **CHAPTER 826**

AN ACT TO REQUIRE PAYMENT OF "TIPS" TO PERSONS FOR WHOM THEY ARE INTENDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-161 is amended by adding the following subsection:

"(g) The term 'tip' shall mean any money or part thereof over and above the actual amount due a business for goods, food, drink, services or articles sold which is paid, given to or left for an employee by a patron or patrons of the business where the employee is employed."

Sec. 2. G.S. 95-163 is amended by rewriting subsection (b) to read as follows:

"(b) The employee shall receive on or before the current payday all the wages and tips accruing to said employee, as of the preceding pay period, by virtue of the employment relationship; however, nothing in this section shall prohibit tip pooling among employees. The employer shall not withhold any wages and tips as security for the performance of assigned tasks."

Sec. 3. This act shall become effective September 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 656 **CHAPTER 827**

AN ACT PROHIBITING THE NORTH CAROLINA AGRICULTURAL EXTENSION SERVICE FROM REFUSING TO EMPLOY PERSONS OTHERWISE QUALIFIED, IN THEIR HOME COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Agricultural Extension Service shall not refuse employment to any person, otherwise qualified, on the grounds that such person is a native of or resident of the county in which the person seeks employment with the extension service.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 658

CHAPTER 828

AN ACT TO REPEAL ARTICLES 13, 13A, 13B AND 25 OF GENERAL STATUTES CHAPTER 58 RELATING TO THE FIRE INSURANCE RATING BUREAU, FIRE AND CASUALTY INSURANCE RATE REGULATIONS, AND REGULATION OF AUTOMOBILE LIABILITY INSURANCE RATES; TO PROVIDE A NEW METHOD OF RATE REGULATION; AND TO AMEND CHAPTERS 58 AND 97 TO CONSOLIDATE THE FUNCTIONS OF THE FIRE INSURANCE RATING BUREAU, THE COMPENSATION RATING AND INSPECTION BUREAU, AND THE AUTOMOBILE RATE ADMINISTRATIVE OFFICE; AND TO ASSURE THE PROPER OPERATION OF THE NORTH CAROLINA REINSURANCE FACILITY ON A SUSTAINING BUT NONPROFIT BASIS.

The General Assembly of North Carolina enacts:

Section 1. Articles 13, 13A, 13B and 25 of G.S. Chapter 58 are repealed in their entirety.

Sec. 2. Chapter 58 of the General Statutes is amended by adding a new Article 13C to read as follows:

"ARTICLE 13C.

"Regulation of Insurance Rates.

"§ 58-131.34. *Purposes.*—The purposes of this Article are

(1) to promote the public welfare by regulating rates to the end that they shall not be excessive, inadequate, or unfairly discriminatory;

(2) to authorize the existence and operation of qualified rating organizations and advisory organizations and require that specified rating services of such rating organizations be generally available to all admitted insurers;

(3) to encourage, as the most effective way to produce rates that conform to the standards of subsection (1) of this section, independent action by and reasonable price competition among insurers;

(4) to authorize cooperative action among insurers in the rate-making process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition; and

(5) to encourage the most efficient and economic marketing practices.

"§ 58-131.35. *Definitions.*—As used in this Article:

(1) 'Advisory organization' means every person, other than an admitted insurer, whether located within or outside this State, who prepares policy forms or makes underwriting rules incident to but not including the making of rates, or rating plans or rating systems, or which collects and furnishes to admitted insurers or rating organizations loss or expense statistics or other statistical information and data and acts in an advisory, as distinguished from a rate-making, capacity. No duly authorized attorney-at-law acting in the usual course of his profession shall be deemed to be an advisory organization.

(2) 'Commissioner' means the Commissioner of Insurance.

(3) 'Inland marine insurance' shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the commissioner or as established by general custom of the business, as inland marine insurance.

(4) 'Member', unless otherwise apparent from the context, means an insurer who participates in or is entitled to participate in the management of a rating, advisory or other organization.

(5) 'Rating organization' means every person, other than an admitted insurer, whether located within or outside this State, who has as his object or purpose the making of rates, rating plans, or rating systems. Two or more insurers which act in concert for the purpose of making rates, rating plans, or rating systems, and which do not operate within the specific authorizations contained in G.S. 58-131.45, G.S. 58-131.46, G.S. 58-131.47 and G.S. 58-131.48, shall be deemed to be a rating organization. No single insurer shall be deemed to be a rating organization.

(6) 'Subscriber', unless otherwise apparent from the context, means an insurer which is furnished at its request (a) with rates and rating manuals by a rating organization of which it is not a member, or (b) with advisory services by an advisory organization of which it is not a member.

(7) 'Willful' means in relation to an act or omission which constitutes a violation of this Article with actual knowledge or belief that such act or omission constitutes such violation and with specific intent to commit such violation.

(8) 'Private passenger motor vehicle' means:

(a) a motor vehicle of the private passenger or station wagon type that is owned or hired under a long-term contract by the policy named insured and that is neither used as a public or livery conveyance for passengers nor rented to others without a driver; or

(b) a motor vehicle with a pick-up body, a delivery sedan or a panel truck that is owned by an individual or by husband and wife or individuals who are residents of the same household and that is not customarily used in the occupation, profession, or business of the insured other than farming or ranching. Such vehicles owned by a family farm copartnership or corporation shall be considered owned by an individual for purposes of this Article; or

(c) a motorcycle, motorized scooter or other similar motorized vehicle not used for commercial purposes.

(9) 'Nonfleet' motor vehicle means a motor vehicle not eligible for classification as a fleet vehicle for the reason that the motor vehicle is one of four or less motor vehicles owned or hired under a long-term contract by the policy named insured.

"§ 58-131.36. *Scope of application.*—The provisions of this Article shall apply to all insurance on risks or on operations in this State, except:

(1) reinsurance, other than joint reinsurance to the extent stated in G.S. 58-131.45;

(2) any policy of insurance against loss or damage to or legal liability in connection with property located outside this State, or any motor vehicle or aircraft principally garaged and used outside of this State, or any activity wholly carried on outside this State;

(3) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

(4) accident, health, or life insurance;

(5) annuities;

(6) title insurance;

(7) mortgage guaranty insurance;

(8) workmen's compensation and employers' liability insurance written in connection therewith;

(9) for private passenger (nonfleet) motor vehicle liability insurance, automobile medical payments insurance, uninsured motorists' coverage and other insurance coverages written in connection with the sale of such liability insurance;

(10) theft of or physical damage to private passenger (nonfleet) motor vehicles; and

(11) insurance against loss to residential real property with not more than four housing units located in this State or any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance.

The provisions of this Article shall not apply to hospital service or medical service corporations, investment companies, mutual benefit associations, or fraternal beneficiary associations.

"§ 58-131.37. *Rate standards.*—(a) Rates shall not be excessive, inadequate, or unfairly discriminatory.

(b) Rates are not excessive if a reasonable degree of price competition exists at the consumer level with respect to the class of business to which they apply. It is presumed that a reasonable degree of price competition exists if there are a number of insurers actively engaged in the class of business and there are rate differentials in that class of business.

(c) If such competition does not exist, rates are excessive if they clearly produce a long-run underwriting profit that is unreasonably high for the class of business.

(d) No rate shall be held to be inadequate unless (1) the rate is unreasonably low for the insurance provided and the continued use of the rate endangers the solvency of the insurer, or unless (2) the rate is unreasonably low for the insurance provided and the use of the rate by the insurer has, or if continued will have, the effect of destroying competition or creating a monopoly.

(e) A rate is not unfairly discriminatory in relation to another in the same class if it reflects equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, as long as the rates reflect the differences with reasonable accuracy. Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, franchise, or blanket policy.

"§ 58-131.38. *Rating methods.*—In determining whether rates comply with the standards under G.S. 58-131.37, the following criteria shall be applied:

(1) Due consideration shall be given to past and prospective loss and expense experience within this State, to catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to trends within this State, to dividends or savings to be allowed or returned by insurers to their policyholders, members, or subscribers, and to all other relevant factors, including judgment factors; provided, however, that countrywide expense and loss experience and other countrywide data shall be considered where credible North Carolina experience or data is not available.

(2) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that have probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations. Such classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions.

(3) The expense provisions included in the rates to be used by an insurer may reflect the operating methods of the insurer and, as far as it is credible, its own expense experience.

"§ 58-131.39. *Filing of rates and supporting data.*—(a) Except as to inland marine risks which by general custom of the business are not written according to manual rates and rating plans, every admitted insurer and every licensed rating organization, which has been designated by any insurer for the filing of rates under G.S. 58-131.41, shall file with the commissioner all rates and all changes and amendments thereto made by it for use in this State prior to the time they become effective.

(b) The commissioner may require the filing of supporting data including:

(1) the experience and judgment of the filer, and to the extent the filer wishes or the commissioner requires, of other insurers or rating organizations;

(2) the filer's interpretation of any statistical data relied upon; and

(3) descriptions of the methods employed in setting the rates.

(c) Upon written consent of the insured, stating his reasons therefor, a rate or deductible or both in excess of that provided by an otherwise applicable filing may be used on a specific risk, provided that it is filed with the commissioner in accordance with Subsection (a) of this section.

"§ 58-131.40. *Filing open to inspection.*—Each filing and supporting data filed under this Article shall, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

"§ 58-131.41. *Delegation of rate making* and *rate filing obligation.*—(a) An insurer may itself establish rates based on the factors in G.S. 58-131.38 or it may use rates prepared by a rating organization, with average expense factors determined by the rating organization or with such modification for its own expense and loss experience as the credibility of that experience allows.

(b) An insurer may discharge its obligation under G.S. 58-131.39 by giving notice to the commissioner that it uses rates prepared by a designated rating organization, with such information about modifications thereof as are necessary to fully inform the commissioner. The insurer's rates shall be those filed from time to time by the rating organization, including any amendments thereto as filed, subject, however, to the modifications filed by the insurer.

"§ 58-131.42. *Disapproval of rates; interim use of rates.*—(a) If the commissioner finds after a hearing that a rate is not in compliance with G.S. 58-131.37, he shall issue an order specifying in what respects it so fails, and stating when, following a reasonable period thereafter, the rate shall be deemed

no longer effective. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(b) Whenever a rate of an insurer is held to be unfairly discriminatory or excessive and the rate is deemed no longer effective by order of the commissioner issued under subsection (a) of this section, the insurer shall have the option to continue to use the rate for the interim period pending judicial review of the order, provided that the insurer shall place in an escrow account approved by the commissioner the purported unfairly discriminatory or excessive portion of the premium collected during the interim period. The court, upon a final determination, shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are *de minimis* shall not be required.

"§ 58-131.43. *Rating organizations.*—(a) No rating organization shall provide any service relating to rates subject to this Article and no insurer shall utilize the service of such organization for such purpose unless the organization has obtained a license from the commissioner.

(b) No rating organization shall refuse to supply any services for which it is licensed in this State to any insurer admitted to do business in this State and offering to pay the fair and usual compensation for the services.

(c) A rating organization applying for a license shall include with its application:

(1) a copy of its constitution, charter, articles of organization, agreement, association, or incorporation, and a copy of its bylaws, plan of operation, and any other rules or regulations governing the conduct of its business;

(2) a list of its members and subscribers;

(3) the name and address of one or more residents of this State upon whom notices, process affecting it, or orders of the commissioner may be served;

(4) a statement showing its technical qualifications for acting in the capacity for which it seeks a license; and

(5) any other relevant information and documents that the commissioner may require.

(d) If the commissioner finds that the applicant and the natural persons through whom it acts are qualified to provide the services proposed, and that all requirements of law are met, he shall issue a license specifying the authorized activity of the applicant. He shall not issue a license if the proposed activity would tend to create a monopoly or to lessen or to destroy price competition. Licenses issued pursuant to this section shall remain in effect until the licensee withdraws from the State or until the license is suspended or revoked.

(e) Any change in or amendment to any document required to be filed under this section shall be promptly filed with the commissioner.

(f) Every rating organization providing services in this State on the effective date of this Article may continue to provide services thereafter as a rating organization, subject to the provisions of this Article and pending its application to the commissioner for a license to provide services as a rating organization, which application shall be made within 30 days after the effective date of this Article.

"§ 58-131.44. *Advisory organizations.*—(a) No advisory organization shall conduct its operations in this State unless and until it has filed with the commissioner:

(1) a copy of its constitution, articles of incorporation, agreement, or association, and of its bylaws, or rules and regulations governing its activities, all duly certified by the custodian of the originals thereof;

(2) a list of its members and subscribers; and

(3) the name and address of a resident of this State upon whom notices, process affecting it, or orders of the commissioner may be served.

(b) Any change in or amendment to any document required to be filed under this section shall be promptly filed with the commissioner.

(c) No advisory organization shall engage in any unfair or unreasonable practice with respect to its activities.

"§ 58-131.45. *Joint underwriting and joint reinsurance organizations.*—(a) Every group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance through such group, association, or organization, or by standing agreement among the members thereof, shall file with the commissioner:

(1) a copy of its constitution, articles of incorporation, agreement, or association, and bylaws;

(2) a list of its members; and

(3) the name and address of a resident of this State upon whom notices, process affecting it, or orders of the commissioner may be served.

(b) Any change in or amendment to any document required to be filed under this section shall be promptly filed with the commissioner.

(c) If after a hearing, the commissioner finds that any activity or practice of any such group, association, or other organization is unfair, unreasonable, or otherwise inconsistent with the provisions of this Article, he may issue a written order specifying in what respects the activity or practice is unfair, unreasonable, or otherwise inconsistent with the provisions of this Article, and requiring the discontinuance of the activity or practice.

"§ 58-131.46. *Insurers authorized to act in concert.*—Subject to and in compliance with the provisions of this Chapter authorizing insurers to be members or subscribers of rating or advisory organizations or to engage in joint underwriting or joint reinsurance, two or more insurers may act in concert with each other and with others with respect to any matters pertaining to the making of rates or rating systems, the preparation or making of insurance policy or bond forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data, or carrying on of research.

"§ 58-131.47. *Insurers authorized to act in concert; admitted insurers with common ownership or management; matters relating to co-surety bonds.*—With respect to any matters pertaining to the making of rates or rating systems, the preparation or making of insurance policy or bond forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data, or carrying on of research, two or more admitted insurers having a common ownership or operating in this State under common management or control, are hereby authorized to act in concert between or among themselves the same as if they constituted a single insurer. To the extent that such matters relate to co-surety bonds, two or more admitted insurers executing co-surety bonds are authorized to act in concert between or among themselves the same as if they constituted a single insurer.

"§ 58-131.48. *Agreements to adhere.*—No insurer shall assume any obligation to any person, other than a policyholder or other insurers with which it is under common control or management or is a member of a joint underwriting or joint reinsurance organization, to use or adhere to certain rates or rules; and no other person shall impose any penalty or other adverse consequence for failure of an insurer to adhere to certain rates or rules. This section shall not apply to apportionment agreements among insurers approved by the commissioner pursuant to G.S. 58-131.52: Provided, however, that members and subscribers of rating or advisory organizations may use the rates, rating systems, underwriting rules, or policy or bond forms of such organizations either consistently or intermittently. The fact that two or more admitted insurers, whether or not members or subscribers of a rating or advisory organization, consistently or intermittently use the rates or rating systems made or adopted by a rating organization, or the underwriting rules or policy or bond forms prepared by a rating or advisory organization, shall not be sufficient in itself to support a finding that an agreement to so adhere exists, and it may be used only for the purpose of supplementing or explaining direct evidence of the existence of any such agreement.

"§ 58-131.49. *Exchange of information or experience data; consultation with rating organizations and insurers.*—Rating organizations licensed pursuant to G.S. 58-131.43 and admitted insurers are authorized to exchange information and experience data between and among themselves in this State and with rating organizations and insurers in other states and may consult with them with respect to rate making and the application of rating systems.

"§ 58-131.50. *Recording and reporting of experience.*—The commissioner shall promulgate or approve reasonable rules, including rules providing statistical plans, for use thereafter by all insurers in the recording and reporting of loss and expense experience, in order that the experience of such insurers may be made available to him. No insurer shall be required to record or report its experience on a classification basis inconsistent with its own rating system. The commissioner may designate one or more rating organizations to assist him in gathering and making compilations of such experience.

"§ 58-131.51. *Examination of rating, joint underwriting, and joint reinsurance organizations.*—The commissioner shall, at least once every three years, make or cause to be made an examination of each rating organization licensed pursuant to G.S. 58-131.43 and each advisory organization licensed pursuant to G.S. 58-131.44. He may, as often as he may deem it expedient, make or cause to be made, an examination of each group, association, or other organization referred to in G.S. 58-131.45. Such examination shall relate only to the activities conducted pursuant to this Article and to the organizations licensed under this Article. The reasonable cost of any such examination shall be paid by the organization examined upon presentation to it of a detailed account of such cost. The officers, manager, agents and employees of any such organization may be examined at any time under oath and shall exhibit all books, records, account, documents or agreements governing its method of operation. In lieu of any such examination, the commissioner may accept the report of an examination made by the insurance advisory official of another state, pursuant to the laws of such state.

"§ 58-131.52. *Apportionment agreements among insurers.*—Agreements may be made between or among insurers with respect to equitable apportionment

among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods. The insurers may agree between or among themselves on the use of reasonable rate modifications for such insurance, agreements, and rate modifications to be subject to the approval of the commissioner.

"§ 58-131.53. *Request for review of rate, rating plan, rating system or underwriting rule.*—Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization may request the insurer or rating organization to review the manner in which the rate, plan, system, or rule has been applied with respect to insurance afforded him. Such request may be made by his authorized representative, and shall be in writing. If the request is not granted within 30 days after it is made, the requestor may treat it as rejected. Any person aggrieved by the action of an insurer or rating organization in refusing the review requested or in failing or refusing to grant all or part of the relief requested, may file a written complaint and request for hearing with the commissioner, and shall specify the grounds relied upon. If the commissioner has information concerning a similar complaint he may deny the hearing. If the commissioner believes that probable cause for the complaint does not exist or that the complaint is not made in good faith, he shall deny the hearing. If the commissioner finds that the complaint charges a violation of this Article and that the complainant would be aggrieved if the violation is proven, he shall proceed as provided in G.S. 58-131.54.

"§ 58-131.54. *Hearing and judicial review.*—(a) Any insurer, person, or organization to which the commissioner has directed an order or decision made without a hearing may, within 30 days after notice to it of the order or decision, make written request to the commissioner for a hearing thereon. The commissioner shall hear the party or parties within 20 days after receipt of the request and shall give not less than 10 days' written notice of the time and place of hearing. Within 15 days after the hearing, the commissioner shall affirm, reverse, or modify his previous action, and specify his reasons therefor. Pending such hearing and decision thereon, the commissioner may suspend or postpone the effective date of his previous action.

(b) Any order or decision of the commissioner shall be subject to judicial review as provided in Article 2 of this Chapter.

"§ 58-131.55. *Penalties.*—(a) The commissioner may, if he finds that any person or organization has violated any provision of this Article, impose a penalty of not more than five hundred dollars ($500.00) for each such provision violated; but if he finds such violation to be willful, he may impose a penalty of not more than five thousand dollars ($5,000) for each such provision violated. Such penalties may be in addition to any other penalty provided by law.

(b) The commissioner may suspend the license of any rating organization or insurer that fails to comply with an order of the commissioner within the time limited by such order, or within any extension thereof that the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of a license shall become effective, and such suspension shall remain in effect for the period fixed by him unless he modifies or rescinds such

suspension, or until the order upon which such suspension is based is modified, rescinded, or reversed.

(c) No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner stating his findings, made after a hearing held upon not less than 10 days' written notice to such person or organization, and specifying the alleged violation.

"§ 58-131.56. *Policy forms.*—Except for fidelity, surety, or guaranty bonds and except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, no policy form applying to insurance on risks or operations covered by this Article shall be delivered or issued for delivery unless it has been filed with the commissioner and either he has approved it, or 90 days have elapsed and he has not disapproved it.

"§ 58-131.57. *Existing rates, rating systems, territories, classifications and policy forms.*—Rates, rating systems, territories, classifications, and policy forms lawfully in use on the effective date of this Article may continue to be used thereafter, notwithstanding any provision of this Article.

"§ 58-131.58. *Payment of dividends not prohibited or regulated; plan for payment into rating system.*—Nothing in this Article shall be construed to prohibit or regulate the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers. A plan for the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers shall not be deemed a rating plan or system.

"§ 58-131.59. *Notice of coverage or rate change.*—Whenever an insurer changes the coverage other than at the request of the insured or changes the premium rate, it shall give the insured written notice of such coverage change or premium rate change at least 15 days in advance of the effective date of such change or changes with a copy of such notice to the agent. This section shall apply to all policies and coverages subject to the provisions of this Article.

"§ 58-131.60. *Limitation.*—Nothing in this Article shall apply to any town or county farmers mutual fire insurance association restricting their operations to not more than three adjacent counties, or to domestic insurance companies, associations, orders or fraternal benefit societies now doing business in this State on the assessment plan."

Sec. 3. G.S. 58-176(c), as it appears in the 1975 Replacement Volume 2B of the General Statutes, is amended by deleting from lines 3 and 4 the words, "for the North Carolina Fire Insurance Rating Bureau."

Sec. 4. G.S. 58-27.2(a), as it appears in the 1975 Replacement Volume 2B of the General Statutes, is amended by deleting from lines 2, 6, and 11 the word "bureau" and substituting therefor the word "organization".

Sec. 5. G.S. 58-27.2(b), as it appears in the 1975 Replacement Volume 2B of the General Statutes, is amended by deleting from lines 1 and 5 the word "bureaus" and substituting therefor the word "organizations".

Sec. 6. Chapter 58 of the General Statutes of North Carolina is hereby amended by the addition of a new Article thereto to be designated "Article 12B" reading as follows:

"ARTICLE 12B.
"North Carolina Rate Bureau.

"§ 58-125. *North Carolina Rate Bureau created.*—There is hereby created a bureau to be known as the 'North Carolina Rate Bureau', with the following objects and functions:

(1) To assume the functions formerly performed by the North Carolina Rating Bureau, the North Carolina Automobile Rate Administrative Office, and the Compensation Rating and Inspection Bureau of North Carolina, with regard to the promulgation of rates, for insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof and valuable interest therein and other insurance coverages written in connection with the sale of such property insurance; for theft of and physical damage to private passenger (nonfleet) motor vehicles as the same are defined under Article 13C of this Chapter; for liability insurance for such motor vehicles, automobile medical payments insurance, uninsured motorists coverage and other insurance coverages written in connection with the sale of such liability insurance; and for workers' compensation and employers' liability insurance written in connection therewith.

(2) The bureau shall provide reasonable means to be approved by the commissioner whereby any person affected by a rate made by it may be heard in person or by his authorized representative before the governing committee or other proper executive of the bureau.

(3) The bureau shall have the duty and responsibility of promulgating and proposing rates for insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance; for insurance against theft of or physical damage to private passenger (nonfleet) motor vehicles; for liability insurance for such motor vehicles, automobile medical payments insurance, uninsured motorists coverage and other insurance coverages written in connection with the sale of such liability insurance; and for workers' compensation and employers' liability insurance written in connection therewith. The provisions of this subdivision shall not apply to motor vehicles operated under certificates of authority from the Utilities Commission, the Interstate Commerce Commission, or their successor agencies, where insurance or other proof of financial responsibility is required by law or by regulations specifically applicable to such certificated vehicles.

(4) Agreements may be made between or among members with respect to equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods. The members may agree between or among themselves on the use of reasonable rate modifications for such insurance, agreements, and rate modifications to be subject to the approval of the commissioner.

(5) It shall be the duty of all insurers underwriting workers' compensation insurance in this State and being members of the bureau, as defined in this section and G.S. 58-126 to insure and accept any workers' compensation insurance risk which shall have been certified to be 'difficult to place' by any fire and casualty insurance agent licensed in this State. When any such risk is called to the attention of the North Carolina Rate Bureau and it appears that said risk is in good faith entitled to such coverage, the bureau shall fix the

initial premium therefor, (subject to the approval of the Insurance Commissioner), and upon its payment said bureau shall designate a member whose duty it shall be to issue a standard workers' compensation policy of insurance containing the usual and customary provisions found in such policies therefor. Upon receipt of the required premium at the office of the bureau during regular working hours the bureau shall instruct the designated carrier to issue its policy of insurance to become effective as of 12:01 a.m. the following day, and the carrier shall be so bound; provided, that the carrier may request of the bureau a certificate of the Department of Labor that the insured is complying with the laws, rules and regulations of that department. Said certificate shall be furnished within 30 days by the Department of Labor, unless extension of time is granted by agreement between the bureau and the Department of Labor. The bureau shall make and adopt such rules as may be necessary to carry this section into effect, subject to final approval of the Insurance Commissioner. As a prerequisite to the transaction of worker's compensation insurance in this State every member of said bureau writing such insurance shall file with the Insurance Commissioner written authority permitting said bureau to act in its behalf as provided in this section, and an agreement to accept such risks as are assigned to said insurance by said bureau, as provided in this section.

"§ 58-126. *Membership as a prerequisite for writing insurance; governing committee; rules and regulations; expenses.*—(a) Before the Commissioner of Insurance shall grant permission to any stock, nonstock, or reciprocal insurance company or any other insurance organization to write in this State insurance against loss to residential real property with not more than four housing units located in this State or any contents thereof or valuable interest therein or other insurance coverages written in connection with the sale of such property insurance; or insurance against theft of or physical damage to private passenger (nonfleet) motor vehicles; or liability insurance for such motor vehicles, automobile medical payments insurance, uninsured motorists coverage or other insurance coverage written in connection with the sale of such liability insurance; or workers' compensation and employers' liability insurance written in connection therewith; it shall be a requisite that they shall subscribe to and become members of the bureau.

(b) Each member of the bureau writing any one or more of the above lines of insurance in North Carolina shall, as a requisite thereto, be represented in the bureau and shall be entitled to one representative and one vote in the administration of the affairs of the bureau. They shall, upon organization, elect a governing committee which governing committee shall be composed of equal representation by stock and nonstock members.

(c) The bureau, when created, shall adopt such rules and regulations for its orderly procedure as shall be necessary for its maintenance and operation. No such rules and regulations shall discriminate against any type of insurer because of its plan of operation, nor shall any insurer be prevented from returning any unused or unabsorbed premium, deposit, savings or earnings to its policyholders or subscribers. The expense of such bureau shall be borne by its members by quarterly contributions to be made in advance, such contributions to be made in advance by prorating such expense among the members in accordance with the amount of gross premiums derived from the above lines of insurance in North Carolina during the preceding year and members entering the bureau since that

date to advance an amount to be fixed by the governing committee. After the first fiscal year of operation of the bureau the necessary expense of the bureau shall be advanced by the members in accordance with rules and regulations to be established and adopted by the governing committee. The bureau shall be empowered to subscribe for or purchase any necessary service, and employ and fix the salaries of such personnel and assistants as are necessary.

(d) The Commissioner of Insurance is hereby authorized to compel the production of all books, data, papers and records and any other data necessary to compile statistics for the purpose of determining the underwriting experience of lines of insurance referred to in this Article, and this information shall be available and for the use of the bureau for the capitulation and promulgation of rates on lines of insurance as are subject to the rate-making authority of the bureau.

"§ 58-127. *Method of rate making; factors considered.*—The following standards shall apply to the making and use of rates:

(1) Rates shall not be excessive, inadequate or unfairly discriminatory.

(2) Due consideration shall be given to past and prospective loss experience, within this State, to the hazards of conflagration and catastrophe, to a reasonable margin for underwriting profit and to contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses specially applicable to this State, and to all other relevant factors including judgment factors, deemed relevant, within this State; provided, however, that countrywide expense and loss experience and other countrywide data shall be considered where credible North Carolina experience or data is not available.

(3) In the case of fire insurance rates, as are subject to the rate-making authority of the bureau, consideration may be given to the experience of such fire insurance business during the most recent five-year period for which such experience is available.

(4) Risks may be grouped by classifications and lines of insurance for establishment of rates and base premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. The bureau is directed to establish and implement a comprehensive classification rating plan for motor vehicle insurance under its jurisdiction within 90 days of the effective date hereof. No such classification plans shall base any standard or rating plan for private passenger (nonfleet) motor vehicles, in whole or in part, directly or indirectly, upon the age or sex of the persons insured. The bureau shall at least once every three years make a complete review of the filed classification rates to determine whether they are proper and supported by statistical evidence.

"§ 58-128. *Filing rates, plans with commissioner; public inspection of filings.*—(a) The bureau shall file with the commissioner copies of the rates, classification plans, rating plans and rating systems used by its members. Each filing shall become effective immediately on the date specified therein but not earlier than 90 days from the date such filing is received by the commissioner.

(b) A filing shall be open to public inspection immediately upon submission to the commissioner.

(c) The bureau shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of the experience of its members and of the data, statistics or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys or inspections made or used by it.

(d) On or before July 1 of each calendar year the bureau shall submit to the commissioner for the motor vehicle liability insurance subject to the provisions of this Article the experience, data, statistics, and information referred to in subsection (c) of this section and a rate review based on such data.

"§ 58-129. *Disapproval; hearing, order; adjustment of premium, review of filing.*—(a) At any time within 30 days from and after the date of any filing, the commissioner may give written notice to the bureau specifying in what respect and to what extent he contends such filing fails to comply with the requirements of this Article and fixing a date for hearing not less than 30 days from the date of mailing of such notice. At such hearing the factors specified in G.S. 58-127 shall be considered. If the commissioner after hearing finds that the filing does not comply with the provisions of this Article, he may issue his order determining wherein and to what extent such filing is deemed to be improper and fixing a date thereafter, within a reasonable time, after which such filing shall no longer be effective. Any order of disapproval under this section must be entered within 90 days of the date such filing is received by the commissioner.

(b) In the event that no notice of hearing shall be issued within 30 days from the date of any such filing, the filing shall be deemed to be approved. If the commissioner disapproves such filing pursuant to subsection (a) as not being in compliance with G.S. 58-127, he may order an adjustment of the premium to be made with the policyholder either by refund or collection of additional premium, if the amount is substantial and equals or exceeds the cost of making the adjustment. The commissioner may thereafter review any such filing in the manner provided, but if so reviewed, no adjustment of premium may be ordered.

"§ 58-130. *Appeal of commissioner's order.*—(a) Any order or decision of the commissioner shall be subject to judicial review as provided in Article 2 of this Chapter.

(b) Whenever a bureau rate is held to be unfairly discriminatory or excessive and no longer effective by order of the commissioner issued under G.S. 58-129, the members of the bureau shall have the option to continue to use such rate for the interim period pending judicial review of such order, provided each such member shall place in escrow account the purportedly unfairly discriminatory or excessive portion of the premium collected during such interim period and the court, upon a final determination, shall order the escrowed funds to be distributed appropriately, except that refunds that are *de minimis* shall not be required. The court may also require that purportedly excess premiums resulting from an adjustment of premiums ordered pursuant to G.S. 58-129(b) be placed in such escrow account pending judicial review. The amounts escrowed hereunder shall bear interest at the prime rate as of the date such rates were put into effect, but in no event, less than the legal rate, from the date of the commissioner's order relating thereto.

"§ 58-131. *Deviations.*—(a) No insurer, officer, agent or representative thereof shall knowingly issue or deliver or knowingly permit the issuance or delivery of any policy of insurance in this State which does not conform to the rates, rating

plans, classifications, schedules, rules and standards made and filed by the bureau. However, an insurer may deviate from the rates promulgated by the bureau provided the insurer has filed the deviation to be applied both with the bureau and the commissioner, and provided the said deviation is uniform in its application to all risks in the State of the class to which such deviation is to apply; and provided such deviation is approved by the commissioner. The commissioner shall approve proposed deviations if the same do not render the rates excessive, inadequate or unfairly discriminatory. If approved the deviation shall remain in force for a period of one year from the date of approval by the commissioner. Such deviation may be renewed annually subject to all of the foregoing provisions. Those portions of this section providing for deviations shall not apply to workers' compensation and employers' liability insurance written in connection therewith.

(b) A rate in excess of that promulgated by the bureau may be charged on any specific risk provided such higher rate is charged with the approval of the commissioner and with the knowledge and written consent of the insured.

"§ 58-131.2. *Appeal to commissioner from decision of bureau.*—Any member of the bureau may appeal to the commissioner from any decision of the bureau and the commissioner shall, after a hearing held on not less than 10 days' written notice to the appellant and to the bureau, issue an order approving the decision of the bureau or directing it to give further consideration to such proposal. In the event the bureau fails to take satisfactory action, the commissioner shall make such order as he may see fit.

"§ 58-131.3. *Existing rates, rating systems, territories, classifications and policy forms.*—Rates, rating systems, territories, classifications and policy forms lawfully in use on the effective date of this Article may continue to be used thereafter, notwithstanding any provision of this Article.

"§ 58-131.4. *Cap on automobile insurance rate increases.*—Notwithstanding any other provision of this Article or Chapter, and with respect to private passenger (nonfleet) automobile liability insurance, automobile medical payments insurance, uninsured motorists coverage, and private passenger (nonfleet) automobile physical damage insurance, neither the North Carolina Rate Bureau nor any member thereof nor the North Carolina Motor Vehicle Reinsurance Facility shall increase the total combined general rate level for these coverages by more than twelve percent (12%) from the general rate level existing at the time of the ratification of this Article, provided that such increase shall not exceed six percent (6%) on or prior to July 1, 1978. Provided, however, the prohibition specified in this section shall terminate on July 1, 1979.

"§ 58-131.5. *Notice of coverage or rate change.*—Whenever an insurer changes the coverage other than at the request of the insured or changes the premium rate, it shall give the insured written notice of such coverage change or premium rate change at least 15 days in advance of the effective date of such change or changes with a copy of such notice to the agent. This section shall apply to all policies and coverages subject to the provisions of this Article.

"§ 58-131.6. *Limitation.*—Nothing in this Article shall apply to any town or county farmers mutual fire insurance association restricting their operations to not more than three adjacent counties, or to domestic insurance companies, associations, orders or fraternal benefit societies now doing business in this State on the assessment plan."

Sec. 7. G.S. 97-100(a) as the same appears in the 1972 Replacement Volume of Volume 2D of the General Statutes of North Carolina is hereby rewritten in its entirety to read as follows:

"(a) The rates charged by all carriers of insurance, including the parties to any mutual insurance association writing insurance against the liability for compensation under this Article, shall be fair, reasonable, and adequate."

Sec. 8. Article 2 of Chapter 97 of the General Statutes of North Carolina is hereby repealed in its entirety.

Sec. 9. G.S. 58-30.4, as the same appears in the 1975 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is hereby amended to read as follows:

"The North Carolina Rate Bureau shall promulgate a revised basic classification plan and a revised subclassification plan for coverages on private passenger (nonfleet) motor vehicles in this State affected by the provisions of G.S. 58-30.3. Said revised basic classification plan will provide for the following four basic classifications to wit: (i) pleasure use only; (ii) pleasure use except for driving to and from work; (iii) business use; and (iv) farm use. The North Carolina Rate Bureau shall promulgate a revised subclassification plan which appropriately reflects the statistical driving experience and exposure of insureds in each of the four basic classifications provided for above, except that no subclassification shall be promulgated based, in whole or in part, directly or indirectly, upon the age or sex of the person insured. Such revised subclassification plan may provide for premium surcharges for insureds having less than two years' driving experience as licensed drivers, and shall provide for premium surcharges for drivers having a driving record consisting of a record of a chargeable accident or accidents, or having a driving record consisting of a conviction or convictions for a moving traffic violation or violations, or any combination thereof, and the premium income from insureds subject to this premium surcharge shall provide not less than one-fourth of the total premium income of insurers in writing and servicing the aforesaid coverages in this State. The classification plans and subclassification plans so promulgated by the bureau shall be subject to the filing, hearing, disapproval, review and appeal procedures before the Commissioner and the courts as provided for rates and classification plans in G.S. 58-128, G.S. 58-129, and G.S. 58-130."

Sec. 10. G.S. 58-248.26, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by deleting in its entirety subdivision (10) thereof and amending subdivision (1) thereof to read as follows:

"(1) 'Cede' or 'cession' means the act of transferring the risk of loss from the individual insurer to all insurers through the operation of the facility."

Sec. 11. G.S. 58-248.32, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by designating the present provisions of said section as "subsection (a)" and by adding thereto the following subsection to be designated "subsection (b)" and reading as follows:

"(b) It shall be the responsibility of the agent to write the coverage applied for at what he believes to be the appropriate rate level. If coverage is written at the facility rate level and the company elects not to cede, the policy shall be rated at the voluntary rate level. Coverage written at the voluntary rate level which is not acceptable to the company must either be placed with another company or rated at the facility rate level by the agent."

Sec. 12. G.S. 58-248.29, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by deleting the words "or gain" therefrom which appear in line 3 thereof following the word "assessments".

Sec. 13. G.S. 58-248.30, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this section to read as follows:

"§ 58-248.30. *Merger, consolidation or cession.*—When a member has been merged or consolidated into another insurer, or has reinsured its entire motor vehicle liability insurance business in the State with another insurer, such company or its successor in interest shall remain liable for all obligations hereunder and such company and its successor in interest and the other insurers with which it has been merged or consolidated shall continue to participate in the facility according to the rules of operation."

Sec. 14. Subsection (a) of G.S. 58-248.33, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this subsection to read as follows:

"(a) The operation of the facility shall assure the availability of motor vehicle insurance to any eligible risk and the facility shall accept all placements made in accordance with this Article, the plan of operation adopted pursuant thereto, and any amendments to either."

Sec. 15. Subdivision (2) of subsection (g) of G.S. 58-248.33, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this subdivision to read as follows:

"(2) To receive and record cessions."

Sec. 16. Subdivision (6) of subsection (g) of G.S. 58-248.33, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this subdivision to read as follows:

"(6) Upon the request of any licensed fire and casualty agent meeting any two of the standards set forth below as determined by the Commissioner of Insurance within 10 days of the receipt of the application, the facility shall contract with one or more members within 20 days of receipt of the determination to appoint such licensed fire and casualty agent as designated agents in accordance with reasonable rules as are established by the plan of operation. Such standards shall be:

a. whether the agent's evidence establishes that he has been conducting his business in a community for a period of at least one year;
b. whether the agent's evidence establishes that he had a gross premium volume during the 13 months next preceding the date of his application of at least twenty thousand dollars ($20,000) from motor vehicle insurance;
c. whether the agent's evidence establishes that the number of eligible risks served by him during the 13 months next preceding the date of his application was 200 or more;
d. whether the agent's evidence establishes a growth in eligible risks served and premium volume during his years of service as an agent;
e. whether the agent's evidence establishes that he made available to eligible risks premium financing or any other plan for deferred payment of premiums.

If no insurer is willing to contract with any such agent on terms acceptable to the board, the facility shall license such agents to write directly on behalf of the facility. However, for this purpose, the facility does not act as an insurer, but only as the statutory agent of all the members of the facility which shall be bound on risks written by the facility's appointed agent. Adequate provision shall be made by the facility to assure that business produced by designated agents which would meet the underwriting criteria of the company shall be written at the voluntary rate and not at the facility rate if higher. The facility may contract with one or more servicing carriers and shall promulgate fair and reasonable underwriting procedures to require that business produced by facility agents and written through said carriers shall be appropriately classified and rated. To this end, the same underwriting criteria for classification and rates used for its voluntary agents shall be used by the servicing carrier servicing such facility agents in order to determine whether the voluntary rate or the facility rate shall apply. All business produced by designated agents or facility agents may be ceded to the facility."

Sec. 17. Subdivision (8) of subsection (g) of G.S. 58-248.33, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this subdivision to read as follows:

"(8) To establish fair and reasonable procedures for the sharing among members of any loss on facility business which cannot be recouped pursuant to G.S. 58-248.34(f) and other costs, charges, expenses, liabilities, income, property and other assets of the facility and for assessing or distributing to members their appropriate shares. Such shares may be based on the member's premiums for voluntary business for the appropriate category of motor vehicle insurance or by any other fair and reasonable method."

Sec. 18. Subdivision (10) of subsection (g) of G.S. 58-248.33, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this subdivision to read as follows:

"(10) To accept all risks submitted in accordance with this Article."

Sec. 19. G.S. 58-248.33, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by the addition of the following two subsections, to be designated subsections (l) and (m), and reading as follows:

"(l) The classifications, rules, rates, rating plans and policy forms used on motor vehicle insurance policies reinsured by the facility may be made by the facility or by any licensed or statutory rating organization or bureau on its behalf and shall be filed with the commissioner. The commissioner may establish separate sub-classifications within the facility for clean risks as defined by the commissioner. Such filings may incorporate by reference any other material on file with the commissioner. Rates shall be neither excessive, inadequate nor unfairly discriminatory. If the commissioner finds, after a hearing, that a rate is either excessive, inadequate or unfairly discriminatory, he shall issue an order specifying in what respect it is deficient and stating when, within a reasonable period thereafter, such rate shall be deemed no longer effective. Said order is subject to judicial review as set out in Article 2 of this Chapter. Pending judicial review of said order, the filed classification plan and the filed rates may be used, charged and collected in the same manner as set out in Section 131.42 of this Chapter. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

All rates shall be on an actuarially sound basis and shall be calculated, insofar as is possible, to produce neither a profit nor a loss. However, if the commissioner determines, after hearing, that any class reinsured in the facility is entitled to a subsidy, the commissioner can order that such subsidy shall be provided in which event the difference between the actual rate charged and the actuarially sound and self-supporting rates for such class shall be recouped in similar manner as assessments pursuant to G.S. 58-248.34(f). Rates shall not include any factor for underwriting profit on facility business, but shall provide an allowance for contingencies. There shall be a strong presumption that the rates and premiums for the business of the facility are neither unreasonable nor excessive.

(m) In addition to annual premiums, the rules of the facility shall allow semi-annual and quarterly premium terms."

Sec. 20. Subsection (e) of G.S. 58-248.34, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this section to read as follows:

"(e) Upon approval of the commissioner of the plan so submitted or the promulgation of a plan deemed approved by the commissioner, all insurance companies licensed to write motor vehicle insurance in this State or any component thereof as a prerequisite to further engaging in writing such insurance shall formally subscribe to and participate in the plan so approved.

The plan of operation shall provide for, among other matters, the establishment of necessary facilities, the management of the facility, the preliminary assessment of all members for initial expenses necessary to commence operations, the assessment of members if necessary to defray losses and expenses, the distribution of gains to defray losses incurred since the effective date hereof and then to persons reinsured by the facility, the recoupment of losses sustained by the facility, which losses may be recouped either through surcharging persons reinsured by the facility or by equitable pro rata assessment of member companies, the standard amount (one hundred percent (100%) or any equitable lesser amount) of coverage afforded on eligible risks which a member company may cede to the facility, and the procedure by which reinsurance shall be accepted by the facility; and shall further provide that:

(1) Members of the board of governors shall receive reimbursement from the facility for their actual and necessary expenses incurred on facility business, en route to perform facility business, and while returning from facility business plus a per diem allowance of twenty-five dollars ($25.00) a day which may be waived.

(2) In order to obtain a transfer of business to the facility effective when the binder or policy or renewal thereof first becomes effective, the company must within 30 days of the binding or policy effective date notify the facility of the identification of the insured, the coverage and limits afforded, classification data, and premium. The facility shall accept risks at other times on receipt of necessary information, but such acceptance shall not be retroactive. The facility shall accept renewal business after the member on underwriting review elects to again cede the business."

Sec. 21. G.S. 58-248.34, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by the addition of three

subsections to be designated subsections (f), (g) and (h) thereto and reading as follows:

"(f) The plan of operation shall provide that every member shall, following payment of any pro rata assessment, commence recoupment of that assessment by way of an identifiable surcharge on motor vehicle insurance policies issued by the member or through the facility until the assessment has been recouped. Such surcharge may be at a percentage of premium or dollar amount per policy adopted by the board of governors of the facility. With the exception of the recoupment provided for in G.S. 58-248.33(1) and with the exception of the surcharge against persons reinsured by the facility as provided for in G.S. 58-248.34(e), recoupment, if necessary, shall not be made based on loss or expense experience prior to July 1, 1979. If the amount collected during the period of surcharge exceeds assessments paid by the member to the facility, the member shall pay over the excess to the facility at a date specified by the board of governors. If the amount collected during the period of surcharge is less than the assessments paid by the member to the facility, the facility shall pay the difference to the member. The amount of recoupment shall not be considered or treated as premium for any purpose.

(g) The plan of operation shall provide that all investment income from the premium on business reinsured by the facility shall be retained by or paid over to the facility. In determining the cost of operation of the facility, all investment income shall be taken into consideration.

(h) The plan of operation shall provide for audit of the annual statement of the facility by independent auditor approved by the Legislative Services Commission."

Sec. 22. G.S. 58-248.35, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this section to read as follows:

"§ 58-248.35. *Procedure for cession provided in plan of operation.*—Upon receipt by the company of a risk which it does not elect to retain, the company shall follow such procedures for ceding the risk as are established by the plan of operation."

Sec. 23. G.S. 58-248.37, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby amended by rewriting this section to read as follows:

"§ 58-248.37. *Exemption from requirements of this Article of companies and their agents.*—The board of governors may exempt a company and its agents from the requirements of this Article, insofar as new business is concerned. The board may further exempt a company and its agents from the requirements of this Article regarding the selling and servicing a particular category of business, if the company is not qualified to service the business."

Sec. 24. If any provision of this act or the application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, the invalidity shall not affect other provisions or application that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 25. This act shall become effective September 1, 1977, and will expire September 1, 1980, and shall not affect any existing policy during the existing term of said policy.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1009 CHAPTER 829

AN ACT TO AMEND G.S. 14-34.2, ASSAULT WITH A FIREARM OR OTHER DEADLY WEAPON UPON LAW ENFORCEMENT OFFICER OR FIREMAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.2 is rewritten to read as follows:

"§ 14-34.2. *Assault with a firearm or other deadly weapon upon law enforcement officer or fireman.*—Any person who shall commit an assault with a firearm or any other deadly weapon upon any law enforcement officer or fireman while such officer or fireman is in the performance of his duties shall be guilty of a felony and shall be fined or imprisoned for a term not to exceed five years in the discretion of the court."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1038 CHAPTER 830

AN ACT TO AUTHORIZE THE PUBLIC SCHOOLS AND STATE BOARD OF EDUCATION TO TRANSPORT CHILDREN WITH SPECIAL NEEDS TO APPROVED SCHOOL PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-11.2(a) is amended by adding a new sentence at the end thereof to read as follows:

"Such transportation also may be provided for nonresidential students to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by the State or by a city or county or city-county school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education."

Sec. 2. G.S. 115-183(1) is amended by adding a new sentence at the end thereof to read as follows:

"And provided further that children with special needs may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by a city or county or city-county school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education."

Sec. 3. G.S. 115-183(5) is amended by adding a new paragraph at the end thereof to read as follows:

"Children with special needs may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by a city or county or city-county school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education."

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1042 CHAPTER 831

AN ACT TO AMEND CHAPTER 17B OF THE GENERAL STATUTES BY AMENDING G.S. 17B-1 TO INCLUDE ADDITIONAL DEFINITIONS AND BY ADDING A NEW SECTION TO BE DESIGNATED G.S. 17B-3.1 TO GRANT TO THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING SYSTEM COUNCIL THE AUTHORITY TO REGULATE TRAFFIC UPON THE GROUNDS OF THE NORTH CAROLINA JUSTICE EDUCATION AND TRAINING CENTER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17B-1 is hereby rewritten to read as follows:

"§ 17B-1. *Definitions.*—As used in this Chapter, unless the context otherwise requires:

'Campus' means that Center property located in Salemburg, North Carolina.

'Center' means the North Carolina Criminal Justice Education and Training Center.

'Center property' means property that is owned or leased in whole or in part by the State of North Carolina and which is subject to the general management and control of the Department of Justice and is located in Salemburg, North Carolina.

'The council' means the North Carolina Criminal Justice Education and Training System Council.

'Criminal Justice agencies' means the State and local law enforcement agencies, the State and local police traffic service agencies, the State correctional agencies, the jails and other correctional agencies maintained by local governments, and the courts of the State.

'Department' means the Department of Justice."

Sec. 2. Chapter 17B of the General Statutes is hereby amended by adding a new section to be designated G.S. 17B-3.1 and to read as follows:

"§ 17B-3.1. *Application of State highway and motor vehicles laws at North Carolina Criminal Justice Education and Training Center.*—(a) Except as otherwise provided in this section, all of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State and the operation of vehicles thereon are applicable to all streets, alleys, driveways, and parking lots on Center property. Nothing in this section modifies any rights of ownership or control of Center property, now or hereafter vested in the State of North Carolina *ex rel,* Department of Justice.

(b) The council may by ordinance prohibit, regulate, divert, control, and limit pedestrian or vehicular traffic and the parking of vehicles and other modes of conveyance on the campus. In fixing speed limits, the council is not subject to G.S. 20-141(f) or (g), but may fix any speed limit reasonable and safe under the circumstances as conclusively determined by the council. The council may not regulate traffic on streets open to the public as of right, except as specifically provided in this section.

(c) The council may by ordinance provide for the registration of vehicles maintained or operated on the campus by any student, faculty member, or

employee of the Center, and may fix fees for such registration. The ordinance may make it unlawful for any person to operate an unregistered vehicle on the campus when the vehicle is required by the ordinance to be registered.

(d) The council may by ordinance set aside parking lots on the campus for use by students, faculty, and employees of the Center and members of the general public attending schools, conferences, or meetings at the Center, visiting or making use of any Center facilities, or attending to official business with the Center. The council may issue permits to park in these lots and may charge a fee therefor. The council may also by ordinance make it unlawful for any person to park a vehicle in any lot or other parking facility without procuring the requisite permit and displaying it on the vehicle.

(e) The council may by ordinance provide for the issuance of stickers, decals, permits or other indicia representing the registration status of vehicles or the eligibility of vehicles to park on the campus and may by ordinance prohibit the forgery, counterfeiting, unauthorized transfer, or unauthorized use of such stickers, decals, permits or other indicia.

(f) Violation of an ordinance adopted under any portion of this section is a misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, in the discretion of the court. An ordinance may provide that certain acts prohibited thereby shall not be enforced by criminal sanctions, and in such cases a person committing any such act shall not be guilty of a misdemeanor.

(g) An ordinance adopted under any portion of this section may provide that a violation will subject the offender to a civil penalty. Penalties may be graduated according to the seriousness of the offense or the number of prior offenses committed by the person charged. The council may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt. The council may also provide for appropriate administrative sanctions if an offender does not pay a validly due penalty or has committed repeated offenses. Appropriate administrative sanctions include, but are not limited to, revocation of parking permits, termination of vehicle registration, and termination or suspension of enrollment in or employment by the Center.

(h) An ordinance adopted under this section may provide that any vehicle illegally parked may be removed to a storage area, in which case the person so removing the vehicle shall be deemed a legal possessor within the meaning of G.S. 44A-2(d).

(i) Evidence that a vehicle was found parked or unattended in violation of a council ordinance is *prima facie* evidence that the vehicle was parked by:

(1) the person holding a Center parking permit for the vehicle; or

(2) if no Center parking permit has been issued for the vehicle, the person in whose name the vehicle is registered with the Center pursuant to subsection (c); or

(3) if no Center parking permit has been issued for the vehicle and the vehicle is not registered with the Center, the person in whose name it is registered with the North Carolina Department of Motor Vehicles or the corresponding agency of another state or nation.

The rule of evidence established by this subsection applies only in civil, criminal, or administrative actions or proceedings concerning violations of

ordinances of the council. G.S. 20-162.1 does not apply to such actions or proceedings.

(j) The council shall cause to be posted appropriate notice to the public of applicable traffic and parking restrictions.

(k) All ordinances adopted under this section shall be recorded in the minutes of the council and copies thereof shall be filed in the offices of the North Carolina Attorney General and the Secretary of State. The council shall provide for printing and distributing copies of its traffic and parking ordinances.

(l) All moneys received pursuant to this section shall be placed in a trust account and may be used for any of the following purposes:

(1) to defray the cost of administering and enforcing ordinances adopted under this section;

(2) to develop, maintain, and supervise parking areas and facilities;

(3) other purposes related to parking, traffic, and transportation on the campus."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1206 CHAPTER 832

AN ACT TO AMEND G.S. 15A-274, ISSUANCE OF ORDER, AND G.S. 15A-277, SERVICE OF ORDER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-274 as the same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by rewriting the second sentence to read as follows:

"Unless the nature of the evidence sought makes it likely that delay will adversely affect its probative value, or when it appears likely that the person named in the order may destroy, alter, or modify the evidence sought or may not appear, the order must be served at least 72 hours before the time designated for the nontestimonial identification procedure."

Sec. 2. G.S. 15A-277 as the same appears in the 1975 Replacement Volume 1C of the General Statutes is hereby amended by eliminating the period and adding "or when it appears likely that the person named in the order may destroy, alter, or modify the evidence sought, or may not appear."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1280 **CHAPTER 833**

AN ACT TO ALLOW THE PURCHASER IN A PARTITION SALE OF REAL PROPERTY TO WITHDRAW HIS OFFER TO PURCHASE WITHIN FIFTEEN DAYS OF THE ORDER CONFIRMING THE SALE BECAUSE OF UNSATISFIED LIENS.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 2 of Chapter 46 of the General Statutes to read as follows:

"§ 46-28.1. *Petition for revocation of confirmation order.*—(a) Notwithstanding G.S. 46-28 or any other provision of law, an order confirming the partition sale of real property shall not become final and effective until 15 days after entered. At any time before the confirmation order becomes final and effective, the purchaser may petition the court to revoke its order of confirmation and to order the withdrawal of the purchaser's offer to purchase the property because a lien or liens remain unsatisfied on the property to be conveyed. In no event shall the confirmation order become final or effective during the pendency of a petition under this section. No upset bid shall be permitted after the entry of the confirmation order.

(b) The purchaser shall deliver a copy of the petition to all parties required to be served under Rule 5 of G.S. 1A-1, and the officer or person designated to make such sale in the manner provided for service of process in Rule 4(j) of G.S. 1A-1. The court shall schedule a hearing on the petition within a reasonable time and shall cause a notice of the hearing to be served on the petitioner, the officer or person designated to make such a sale and all parties required to be served under Rule 5 of G.S. 1A-1.

(c) If the purchaser proves by a preponderance of the evidence that:

(1) a lien remains unsatisfied on the property to be conveyed;

(2) the purchaser has not agreed in writing to assume the lien;

(3) the lien will not be satisfied out of the proceeds of the sale; and

(4) the existence of the lien was not disclosed in the notice of sale of the property, the court may revoke the order confirming the sale, order the withdrawal of the purchaser's offer, and order the return of any monies or security to the purchaser tendered pursuant to his offer.

(d) The order of the court in revoking an order of confirmation under this section may not be introduced in any other proceeding to establish or deny the existence of a lien."

Sec. 2. G.S. 46-33, as is found in the 1976 Replacement to Volume 2A of the General Statutes, is amended by deleting the words "Upon confirmation of the report" and by inserting in lieu thereof the following "At the time that the order of confirmation becomes final".

Sec. 3. After the Order of Confirmation has been entered, the successful bidder may immediately purchase the property upon which he bid; and upon the exercise of such election, the Order of Confirmation shall become final.

Sec. 4. That this act shall become effective October 1, 1977, but shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1338

CHAPTER 834

AN ACT TO AMEND CHAPTERS 160A AND 153A OF THE GENERAL STATUTES TO AUTHORIZE CITIES AND COUNTIES TO PAY CERTAIN CIVIL JUDGMENTS AGAINST EMPLOYEES AND OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-167, as amended by Chapter 307 of the Session Laws of 1977, is further amended:

(a) by rewriting the caption to read "*Defense of employees and officers; payment of judgments.*";

(b) by designating the present section as subsection (a) of G.S. 160A-167;

(c) by adding a new subsection (b) and (c) as follows:

"(b) Any city council or board of county commissioners may appropriate funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its employees or officers, or former employees or officers, when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his employment or duty as an employee or officer of the city or county; provided, however, that nothing is this section shall authorize any city or county to appropriate funds for the purpose of paying any claim made or civil judgment entered against any of its employees or officers or former employees or officers if the city council or board of county commissioners finds that such employee or officer acted or failed to act because of actual fraud, corruption or actual malice on his part. Any city or county may purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any city or county to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) shall not authorize any city or county to pay all or part of a claim made or civil judgment entered unless (1) notice of the claim or litigation is given to the city council or board of county commissioners prior to the time that the claim is settled or civil judgment is entered, and (2) the city council or board of county commissioners shall have adopted, and made available for public inspection, uniform standards under which claims made or civil judgments entered against employees or officers, or former employees or officers, shall be paid."

Sec. 2. G.S. 160A-209(c) is amended by inserting a new paragraph (11) reading:

"(11) Defense of employees and officers. To provide for the defense of, and payment of civil judgments against, employees and officers or former employees and officers, as authorized by this Chapter.", and by renumbering the remaining paragraphs accordingly.

Sec. 3. G.S. 153A-149(c) is amended by inserting a new paragraph (11) reading:

"(11) Defense of employees and officers. To provide for the defense of, and payment of civil judgments against, employees and officers or former employees

and officers, as authorized by this Chapter.", and by renumbering the remaining paragraphs accordingly.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1345 CHAPTER 835

AN ACT TO AMEND G.S. 58-210(4) RELATIVE TO REQUIREMENTS FOR ISSUING GROUP LIFE INSURANCE TO TRUSTEES APPOINTED BY TWO OR MORE EMPLOYERS OR LABOR UNIONS FOR THE BENEFIT OF EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-210(4), as the same appears in the 1975 Replacement Volume 2B of the General Statutes of North Carolina, is hereby amended by rewriting this subdivision to read as follows:

"(4) A policy issued to the trustee of a fund established by two or more employers in the same industry or kind of business or by two or more labor unions, which trustee shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

a. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to memberships in the unions, or to both. The policy may provide that the term 'employees' shall include the individual proprietor or partners if an employer is an individual proprietor or a partnership. The policy may provide that the term 'employees' shall include the trustee or the employees of the trustee, or both, if their duties are principally connected with such trusteeship. The policy may provide that the term 'employees' shall include retired employees.

b. The premium for the policy shall be paid by the trustee wholly from funds contributed by the participating employer or labor union, or partly from funds contributed by the participating employer or labor union and partly from funds contributed by the insured persons. In no event shall the funds contributed by the participating employer or labor union represent less than twenty-five percent (25%) of the total cost of the insurance with respect to the insured persons of a participating employer or labor union.

If none of the premium paid by the participating employer or labor union is to be derived from funds contributed by the insured persons specifically for the insurance, all eligible employees of that particular participating employer or labor union must be insured, or all except any as to whom evidence of insurability is not satisfactory to the insurer. Insurance may not be placed into effect for employees of a participating employer or labor union if less than twenty-five percent (25%) of the total cost is paid by the participating employer or labor union.

If part of the premium paid by the participating employer or labor union is to be derived from funds contributed by the insured persons specifically for their insurance, coverage may be placed in force on employees of a participating employer or on members of a participating labor union only if at least seventy-five percent (75%) and a minimum of five of the eligible persons in the unit

subscribing to the trust, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect when enrolling to make the required contributions.

c. The policy must cover at least 100 persons at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1352 CHAPTER 836

AN ACT TO PROVIDE THAT RULES AND REGULATIONS GOVERNING ACCESS TO THE POLICE INFORMATION NETWORK SHALL NOT PROHIBIT AN ATTORNEY IN A CRIMINAL PROCEEDING FROM OBTAINING INFORMATION RELEVANT TO THAT CRIMINAL PROCEEDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 114-10.1 is hereby amended by adding a new sentence to subsection (c) after the first sentence to read as follows:

"The rules and regulations governing access to the Police Information Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1365 CHAPTER 837

AN ACT TO AMEND G.S. 14-306 AS IT RELATES TO ARCADE AMUSEMENT MACHINES AND DEVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-306 is hereby amended by deleting therefrom the last sentence and by adding thereto a new paragraph which shall read:

"The definition contained in the first paragraph of this section does not include, and shall not be construed as including, coin operated machines or devices designed and manufactured for amusement and the operation of which depends in part upon the skill of the player. Included within this exception, are pinball machines and other arcade amusement devices which award a limited number of replays which are not convertible to money or other things of tangible value, and which do not require a federal gaming device tax stamp."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1378 **CHAPTER 838**

AN ACT TO AMEND THE MEDICAL PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 90-9 of the General Statutes of North Carolina, as it appears in the 1975 Replacement Volume 2C, is hereby amended deleting the third paragraph thereof and substituting in lieu thereof the following:

"If the applicant successfully passes such examination as determined by the board, and if the applicant also satisfies the board that he has successfully completed one year of training after his graduation from medical school in a medical education program approved by the board, the board shall grant such applicant a license authorizing the applicant to practice medicine in any of its branches."

Sec. 2. Section 90-13 of the General Statutes of North Carolina, as it appears in the 1975 Supplement to G.S. Volume 2C, is hereby amended by striking out the period at the end of the first sentence of said section after the word "State" and adding in lieu thereof a comma and the following:

"and has successfully completed one year of training after his graduation from medical college in a medical education and training program approved by the board, in which program the board may permit him to practice medicine."

Sec. 3. Section 90-14(6) of the General Statutes of North Carolina, as it appears in the 1975 Supplement to G.S. Volume 2C, is hereby amended by striking out the word "minimal". Section 90-14 is further amended by deleting subdivision (4).

Sec. 4. Section 90-15 of the General Statutes of North Carolina, as it appears in the 1975 Replacement Volume 2C, is hereby amended by deleting the words "within the confines of a hospital" and inserting in lieu thereof "in a medical education and training program approved by the board."

Sec. 5. Section 90-16 of the General Statutes of North Carolina, as it appears in the 1975 Supplement to G.S. Volume 2C, is amended by adding thereto the following:

"The board may in an executive session receive evidence involving or concerning the treatment of a patient who has not expressly or impliedly consented to the public disclosure of such treatment as may be necessary for the protection of the rights of such patient or of the accused physician and the full presentation of relevant evidence. All records, papers and other documents containing information collected and compiled by the board, or its members or employees as a result of investigations, inquiries or interviews conducted in connection with a licensing or disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes; provided, however, that any notice or statement of charges against any licensee, or any notice to any licensee of a hearing in any proceeding shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of any such investigation, inquiry or interview; and provided, further, that if any such record, paper or other document containing information theretofore collected and compiled by the board, as hereinbefore provided, is received and admitted in evidence in any hearing before the board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes.

In any proceeding before the board, in any record of any hearing before the board, and in the notice of the charges against any licensee (notwithstanding any provision herein to the contrary) the board may withhold from public disclosure the identity of a patient who has not expressly or impliedly consented to the public disclosure of treatment by the accused physician."

Sec. 6. Section 1 and Section 2 of this act shall become effective October 1, 1977. Sections 3, 4 and 5 of this act shall become effective upon ratification of this act.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1431 CHAPTER 839

AN ACT TO REGULATE THE TRANSPORTATION OF SPENT NUCLEAR FUEL UPON THE HIGHWAYS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. A new G.S. 20-143.2 is hereby added to General Statutes Chapter 20 to read as follows:

"§ 20-143.2. *Transportation of spent nuclear fuel.*—(a) No person, firm or corporation shall transport upon the highways of this State any spent nuclear fuel unless such person, firm, or corporation notifies the State Highway Patrol in advance of transporting the spent nuclear fuel.

(b) The provisions of this section shall apply whether or not the fuel is for delivery in North Carolina and whether or not the shipment originated in North Carolina.

(c) The Radiation Protection Commission is authorized to adopt, promulgate, amend, and repeal rules and regulations necessary to implement the provisions of this section.

(d) Any person, firm or corporation violating any provision of this section shall be punished by a fine of not less than five hundred dollars ($500.00), and each unauthorized shipment shall constitute a separate offense."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1486 CHAPTER 840

AN ACT TO REPEAL G.S. 20-9(g)(4)g AFFECTING THE RIGHT OF APPEAL OF LICENSEES DENIED DRIVING PRIVILEGES FOR PHYSICAL OR MENTAL DISABILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-9(g)(4)g, as it appears in the 1975 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes, is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 199 **CHAPTER 841**

AN ACT TO AMEND CHAPTER 84 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO ATTORNEYS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 84 of the General Statutes of North Carolina is hereby amended by adding a new section immediately following G.S. 84-5, to be designated as G.S. 84-5.1, and to read as follows:

"§ 84-5.1. *Rendering of indigent legal services by nonprofit corporations.*— Subject to the rules and regulations of the North Carolina State Bar, as approved by the Supreme Court of North Carolina, a nonprofit corporation, organized under Chapter 55A of the General Statutes of North Carolina for the sole purpose of rendering indigent legal services, may render such services through attorneys duly licensed to practice law in North Carolina."

Sec. 2. (a) G.S. 84-17 is hereby amended by inserting the following sentence immediately following the first sentence on line 10 as the same appears on page 321 of the 1975 Replacement Volume of the General Statutes:

"Notwithstanding any other provisions of the law, the North Carolina State Bar shall have the power and authority to acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The North Carolina State Bar Council is authorized and empowered in its discretion to utilize the services of the Purchase and Contract Division of the Department of Administration for the procurement of personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes."

(b) G.S. 84-23, as the same appears in the 1975 Supplement to the General Statutes, is hereby amended by adding the following at the end of line 8:

"to acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The North Carolina State Bar Council is authorized and empowered in its discretion to utilize the services of the Purchase and Contract Division of the Department of Administration for the procurement of personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes.".

(c) G.S. 84-24, as the same appears in the 1975 Replacement Volume of the General Statutes, is hereby amended in line 8 by striking out the word "nine" at the end of the line, and inserting the figure "11" in lieu thereof, it being the intent and purpose of this amendment to increase the membership of the State Board of Law Examiners from nine to 11.

(d) G.S. 84-34 is hereby amended by striking out the words and figures "forty-five dollars ($45.00)" and inserting in lieu thereof the words and figures "seventy-five dollars ($75.00)" and this amendment relating to membership fees shall become effective January 1, 1978.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. Except as herein otherwise specifically provided, the provisions of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 230 **CHAPTER 842**

AN ACT TO ESTABLISH A CONSUMER AND ADVOCACY ADVISORY COMMITTEE FOR THE BLIND.

The General Assembly of North Carolina enacts:

Section 1. Part 9 of Article 3 of Chapter 143B of the General Statutes is hereby repealed and in its place is substituted the following:

"PART 9.

"Consumer and Advocacy Advisory Committee for the Blind.

"§ 143B-163. *Consumer and Advocacy Advisory Committee for the Blind—creation, powers and duties.*—(a) There is hereby created the Consumer and Advocacy Advisory Committee for the Blind of the Department of Human Resources.

(b) The Consumer and Advocacy Advisory Committee for the Blind shall advise all State boards, commissions, agencies, divisions, departments, schools, corporations, or other state-administered associations or entities, including the secretary, director and members of said boards, commissions, agencies, divisions, departments, schools, et cetera, on the needs of the citizens of the State of North Carolina who are now or will become visually handicapped or impaired.

(c) The Consumer and Advocacy Advisory Committee for the Blind shall also advise every State board, commission, agency, division, department, school, corporation, or other state-administered associations or entity concerning sight conservation programs that it supervises, administers or controls.

(d) All State boards, commissions, agencies, divisions, departments, schools, corporations, or other state-administered associations or entities including the secretary, director and members of said State boards, agencies, departments, et cetera, which supervise, administer or control any program for or affecting the citizens of the State of North Carolina who are now or will become visually handicapped or impaired shall inform the Consumer and Advocacy Advisory Committee for the Blind of any proposed change in policy, program, budget, rule, or regulation which will affect the citizens of North Carolina who are now or will become visually handicapped or impaired. Said board, commission, et cetera, shall allow the Consumer and Advocacy Advisory Committee for the Blind, prior to passage, unless such change is made pursuant to G.S. 150A-13, an opportunity to object to the change and present information and proposals on behalf of the citizens of North Carolina who are now or will become visually handicapped or impaired. This subsection shall also apply to all sight conservation programs of the State of North Carolina.

(e) Nothing in this statute shall prohibit a board, commission, agency, division, department, et cetera, from implementing any change after allowing the Consumer and Advocacy Advisory Committee for the Blind an opportunity to object and propose alternatives. Shifts in budget items within a program or administrative changes in a program required in the day-to-day operation of an agency, department, or school, et cetera, shall be allowed without prior consultation with said committee.

"§ 143B-164. *Consumer and Advocacy Advisory Committee for the Blind—members; selection; quorum; compensation.*—(a) The Consumer and Advocacy Advisory Committee for the Blind of the Department of Human Resources shall consist of the following members:

(1) President and Vice-President of the National Federation of the Blind of North Carolina;

(2) President and Vice-President of the North Carolina Council of the Blind;

(3) President and Vice-President of the North Carolina Association of Workers for the Blind;

(4) President and Vice-President of the North Carolina Chapter of the American Association of Workers for the Blind;

(5) Chairman of the State Council of the North Carolina Lions and Executive Director of the North Carolina Lions Association for the Blind, Inc.;

(6) Chairman of the Concession Stand Committee of the Division of Services for the Blind of the Department of Human Resources;

(7) Executive Director of the North Carolina Society for the Prevention of Blindness, Inc.

Provided, each officeholder shall serve on the committee only so long as he holds the named position in the specified organization. Upon completion of his term, failure to secure reelection or appointment, or resignation, the individual shall be deemed to have resigned from the committee and his successor in office shall immediately become a member of the committee.

Provided, further, if any of the above organizations dissolve or if any of the above-stated positions no longer exist, then the successor organization or position shall be deemed to be substituted in the place of the former one and the officeholder in the new organization or of the new position shall become a member of the committee.

(b) A chairman shall be elected by a majority vote of the committee members for a one-year term to coincide with the fiscal year of the State. Provided, the first chairman shall be elected for a term to end June 30, 1978.

Provided, further, if any chairman does not desire or is unable to continue to perform as chairman for any reason, including his becoming ineligible to be a member of the committee as specified in subsection (a), the remaining members shall elect a chairman to fulfill the remainder of his term.

(c) A majority of the members shall constitute a quorum for the transaction of business.

(d) The committee shall meet once a quarter to act upon any information provided them by any board, commission, agency, division, department, school, et cetera. Special meetings may be held at any time and place within the State at the call of the chairman or upon written request of at least a majority of the members. Provided, a majority of the members shall be allowed to waive any meeting.

(e) All clerical and other services required by the committee shall be supplied by the Secretary of Human Resources.

(f) Members of the committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5."

Sec. 2. It is the intent of the General Assembly that the provisions of this act shall be implemented without additional appropriations to the

Department of Human Resources, and nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 427 **CHAPTER 843**

AN ACT TO AMEND THE WOUND REPORTING LAW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 31 of the 1977 Session Laws is hereby amended by rewriting the second paragraph of Section 1, which rewrites Section 2 of Chapter 4 of the 1971 Session Laws as amended by Chapter 594 of the 1971 Session Laws to read as follows:

"Sec. 2. This act shall apply only to Alamance, Avery, Beaufort, Buncombe, Craven, Davidson, Davie, Durham, Forsyth, Gaston, Guilford, Hertford, Hyde, Iredell, Martin, Mecklenburg, Montgomery, New Hanover, Onslow, Polk, Randolph, Robeson, Rockingham, Rowan, Stanly, Stokes, Surry, Union, Wake and Wayne Counties."

Sec. 2. The words "or illegal drug usage" are hereby deleted from line 5 of G.S. 90-21.5(b) as set forth in Section 1 of Chapter 4 of the 1971 Session Laws.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 503 **CHAPTER 844**

AN ACT TO ALLOW APPEAL OF A MONEY JUDGMENT IN MAGISTRATE'S COURT TO STAY EXECUTION OF THE JUDGMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-227 is amended to read as follows:

"§ 7A-227. *Stay of execution on appeal.*—Appeal from judgment of a magistrate does not stay execution if the judgment is for recovery of specific property. Such execution may be stayed by order of the clerk of superior court upon petition by the appellant accompanied by undertaking in writing, executed by one or more sufficient sureties approved by the clerk, to the effect that if judgment be rendered against appellant the sureties will pay the amount thereof with costs awarded against the appellant. Appeal from judgment of a magistrate does stay execution if the judgment is for money damages.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 758 **CHAPTER 845**

AN ACT TO AMEND THE MINING ACT OF 1971, G.S. 74-46 ET SEQ. TO PROVIDE CERTAIN CLARIFYING AND TECHNICAL AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-49(3), as it now appears in 1975 Replacement Volume 2C of the General Statutes, is amended by deleting therefrom the citations to the statutes "G.S. 74-37 and G.S. 74-38" and by substituting instead the citation to the statute "G.S. 143B-290".

Sec. 2. G.S. 74-51(3), as it now appears in 1975 Replacement Volume 2C of the General Statutes, is amended by deleting therefrom the words "Department of Water & Air Resources" and by removing the brackets from around the words "Department of Natural and Economic Resources" as they appear in lines 29 through 30.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1473 **CHAPTER 846**

AN ACT TO AMEND CHAPTER 869, SESSION LAWS OF 1975 TO CLARIFY THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY THE CITY OF FAYETTEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 869, Session Laws of 1975, is amended by rewriting Section 3.5 thereof to read as follows:

"In exercising the power of eminent domain for any purpose for which it is authorized to exercise such power, the City of Fayetteville, the Town of Spring Lake, and the County of Cumberland are vested with the authority, and authorized to use the provisions and procedures of Article 9, Chapter 136 of the General Statutes, subject to the provisions of Section 1 of this act, and wherever the words 'Department of Transportation' appear in Article 9, they shall be deemed to include 'municipality', 'municipal governing body', 'county or county commissioners'."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 432 **CHAPTER 847**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF VALDESE AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Valdese is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF VALDESE.

"ARTICLE I.

"Incorporation, Corporate Powers and Boundaries.

"Section 1.1. Incorporation. The Town of Valdese, North Carolina, in the County of Burke, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Valdese', hereinafter at times referred to as the 'town'.

"Sec. 1.2. Powers. The Town of Valdese shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Valdese, specifically, or upon municipal corporations, generally, by this charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate limits. The corporate limits of the Town of Valdese shall be those existing at the time of ratification of this charter, as the same are set forth on the official map of the town, and as the same may be altered from time to time in accordance with law. An official map or description showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the town shall be made.

"ARTICLE II.

"Mayor and Town Council.

"Sec. 2.1. Governing body. The mayor and town council, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and council may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

"Sec. 2.2. Town council; composition; terms of office. The town council shall be composed of five members, each of whom shall be elected for terms of four years in the manner provided by Article III of this charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. Mayor; term of office; duties. The mayor shall be elected in the manner provided by Article III of this charter to serve for a term of two years, or until his successor is elected and qualified. The mayor shall be the official head of the town government and shall preside at all meetings of the council. He shall have the right to vote only when there is an equal number of votes in the affirmative and the negative on any motion before the council. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this charter, and by the ordinances of the town.

"Sec. 2.4. Mayor pro tempore. In accordance with applicable State laws, the town council shall appoint one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the council.

"ARTICLE III.

"Elections.

"Sec. 3.1. Regular municipal elections; conduct and method of election. Regular municipal elections shall be held in the town every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and members of the

council shall be elected according to the nonpartisan plurality method of election.

"Sec. 3.2. Election wards; ward boundaries. The town shall continue to be divided into five single-member election wards, numbered one through five, respectively.

The election ward boundaries shall be those existing at the time of the ratification of this charter, as the same are set forth by an official written description. The official written description of the election ward boundaries shall be maintained permanently in the office of the town clerk, and shall be available for public inspection.

The town council is authorized, in accordance with State law, to revise from time to time the election ward boundaries of the town. Upon alteration of the ward boundaries pursuant to law, the board shall cause to be made the appropriate changes in the official written description of the election ward boundaries.

"Sec. 3.3. Election of council members. At the regular municipal elections in 1977 and quadriennially thereafter, there shall be elected three council members to represent, respectively, election wards one, two, and three, as hereinabove provided. At the regular municipal elections in 1979, and quadriennially thereafter, there shall be elected two council members to represent, respectively, election wards four and five as hereinabove provided. Each candidate for the office of council member shall have been a resident of the ward from which he is a candidate for a period of not less than 30 days next preceding the date of the election. Candidates for council member shall be voted upon by the voters of the town voting at large.

"Sec. 3.4. Election of the mayor. At the regular municipal election in 1977, and biennially thereafter, there shall be elected a mayor to serve a term of two years. The mayor shall be elected by the voters of the town voting at large.

"ARTICLE IV.

"Organization and Administration.

"Sec. 4.1. Form of government. The town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Administrative officers and employees. Consistent with applicable State laws, the town council and town manager may establish positions, provide for the appointment of administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"Sec. 4.3. Consolidation of administrative functions. The town council and town manager may consolidate any two or more administrative positions in the town government or may assign the functions of any position to the holder or holders of any other position, subject to the Local Government Budget and Fiscal Control Act, and other applicable State laws.

"ARTICLE V.

"Alcoholic Beverage Control.

"Sec. 5.1. Election authorized. Subject to the limitations of Section 5.6 hereof, an election may at any time be called in the town upon written request of the town council or upon a petition to the appropriate board of elections conducting elections for the town on the question of submitting to the qualified

voters of the town the question of establishing and operating in the town an alcoholic beverage control store, or stores, as herein provided.

The election shall be called in the town by the appropriate board of elections upon the written request of the town council or upon a petition to the board of elections signed by a number of voters of the town equal to at least twenty percent (20%) of the number of registered voters of the town according to the registration figures certified by the State Board of Elections on the date the petition is presented to the appropriate board of elections. In calling the special election, the board of elections shall give at least 30 days' public notice of the election before the closing of the registration books for such election, and the registration books shall close at the same time as for a regular town election. A new registration of voters for special alcoholic beverage control elections is not required, and all qualified electors who are properly registered prior to the registration for the special election, as well as those electors who register for the special alcoholic beverage control election, shall be entitled to vote in the election.

"Sec. 5.2. Petition procedure. Unless otherwise specified in this Article, the procedural requirements relating to the petition shall be as provided in G.S. 18A-52(b), (c), (d), and (e), except the question shall be 'For' or 'Against' municipal alcoholic beverage control stores.

"Sec. 5.3. Election procedure; determination of results. The appropriate board of elections shall immediately call an election pursuant to the provisions of G.S. 18A-52, subsections (a) through (i), which are hereby adopted, except that subsection (j) shall allow the presentation of one or more of the following:

'For' or 'Against' Off-Premises Sales Only of Unchilled Unfortified Wine.

'For' or 'Against' Off-Premises Sales Only of Unchilled Malt Beverages.

This section shall in no way be construed as to limit the provisions of G.S. 18A-52, but is solely to allow the additional questions as to unchilled malt beverages or wine to be presented to the voters in addition to those contained in subsection (j), pursuant to the 1973 amendment of the North Carolina Legislature, or to be in addition to any questions which might later be allowed by the Legislature.

Those favoring the setting up and operation of alcoholic beverage control stores in the Town of Valdese shall place a mark in the voting square to the left of the words 'For Municipal Alcoholic Beverage Control Stores' printed on the ballot, and those opposed to setting up and operating alcoholic beverage control stores in the Town of Valdese shall place a mark in the voting square to the left of the words 'Against Municipal Alcoholic Beverage Control Stores', printed on the same ballot. If a majority of the votes cast in such election shall be for municipal alcoholic beverage control stores, then an alcoholic beverage control store, or alcoholic beverage control stores, may be set up and operated in the Town of Valdese as herein provided. If a majority of the votes cast at the election are against municipal alcoholic beverage control stores, then no alcoholic beverage control store shall be set up or operated in the Town of Valdese under the provisions of this Article.

"Sec. 5.4. Board of Alcoholic Control; organization; use of funds. If the operation of a municipal alcoholic beverage control store is authorized under the provisions of this Article, the mayor and council shall immediately create a town board of alcoholic control to be composed of a chairman and two other members who shall be well known for their character, ability and business

acumen. Said board shall be known and designated as 'The Town of Valdese Board of Alcoholic Control'. The chairman of said board shall be designated by the mayor and town council and shall serve for his first term a period of three years; one member shall serve for his first term a period of two years; the other member shall serve for a term of one year. All terms shall begin with the date of their appointment and after such terms shall have expired, the successors in office shall serve for a period of three years. The successors and any vacancies occurring in the Town Board of Alcoholic Control shall be named or filled by the mayor and the council of the town.

The Town of Valdese Board of Alcoholic Control shall have all the powers and duties imposed by the General Statutes on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control, as provided in the General Statutes. The Town Board of Alcoholic Control and the operation of any town liquor store authorized under the provisions of this section shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this Article. Wherever the term 'county' board of alcoholic control appears in Chapter 18A, it shall include the Town of Valdese Board of Alcoholic Control. The net profits remaining after first deducting necessary working capital, salaries and expenses, including those sums expended for law enforcement and for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics as required by G.S. 18A-17, shall be distributed not less than annually as follows:

(a) ten percent (10%) of the net profits paid into the General Fund of Burke County to be used only for capital outlay for the county public schools;

(b) ninety percent (90%) of the net profits paid into the General Fund of the Town of Valdese to be appropriated by the governing body of the town for any proper governmental purpose.

"Sec. 5.5. Subsequent elections. The appropriate board of elections shall, upon request by the town council or receipt of a petition signed by twenty percent (20%) of all registered voters of the town, call a subsequent election, to be conducted in accordance with Sections 5.1 through 5.4 hereof, for the purpose of voting 'For' or 'Against' liquor control stores. If, after the establishment of an alcoholic beverage control store or stores in the town under the provisions of this Article, a subsequent election shall be held and, if, at such election a majority of the votes shall be cast 'Against Municipal Alcoholic Beverage Control Stores', the Board of Alcoholic Control shall, within three months from the canvassing of such votes and the declaration of the result thereof, close such store or stores and shall thereafter cease to operate the same. Within three months therefrom the board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of the Board of Alcoholic Control and convert the same into cash and turn the same over to the town finance officer. Thereafter, all Public, Public-Local, Private and Session Laws applicable to the sale of intoxicating beverages within the town in force and effect prior to the authorization to operate a municipal alcoholic beverage control store shall be in full force and effect as if such election had not been held, until and unless another election is held under the provisions of this Article in which a majority of the votes shall be cast 'For Municipal Alcoholic Beverage Control Stores'.

"Sec. 5.6. Limitations on holding elections. No election shall be called and held in the town under the provisions of this Article within three years from the holding of the last election thereunder. It shall be the duty of the board of elections conducting elections for the Town of Valdese to order the special liquor election herein authorized within 60 days after request by the town council or after the filing of a sufficient petition requesting the same, but no election under this act shall be held on the day of any biennial county or town general election or primary election, or within 45 days of any such election.

"ARTICLE VI.

"Special Provisions.

"Sec. 6.1. Assessments for street and sidewalk improvements; petition unnecessary.

A. In addition to any authority which is now or may hereafter be granted by general law to the town for making street improvements, the town council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

B. The town council may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the board as a fact:

(1) that the street improvement project does not exceed 1,200 linear feet, and

(2) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(3) that it is in the public interest to connect two streets, or portions of a street already improved, or

(4) that it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

C. For the purposes of this section the term 'street improvement' shall refer to the initial improvement of an unimproved, unpaved street, including initial acquisition of rights-of-way, grading, surfacing, and the construction of curb and gutter and street drainage facilities. For the purposes of this section, the term 'sidewalk improvement' shall refer to the initial acquisition of rights-of-way, laying out, grading and surfacing of new sidewalks. The provisions of this section are not intended to refer to those activities that are normally included under the city's street maintenance program, such as street resurfacing and repairs, curb and gutter and sidewalk maintenance and repairs.

D. In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the town council is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting

property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the board of commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

E. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the board of commissioners shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

F. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 6.2. Power of eminent domain. The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the town in the case of acquisition of lands, easements, privileges, rights-of-way and other interest in real property for streets, sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the town, or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Valdese and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Valdese.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 104, Private Laws of 1935
Chapter 300, Public Laws of 1941

Chapter 606, Session Laws of 1961
Chapter 3, Session Laws of 1963
Chapter 642, Session Laws of 1963
Chapter 217, Session Laws of 1965
Chapter 421, Session Laws of 1967
Chapter 422, Session Laws of 1967
Chapter 116, Session Laws of 1975

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. All existing ordinances and resolutions of the Town of Valdese and all existing rules or regulations of departments or agencies of the Town of Valdese, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

Sec. 8. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Valdese or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1184 **CHAPTER 848**

AN ACT REPEALING CHAPTER 166 OF THE NORTH CAROLINA GENERAL STATUTES, ENTITLED, "NORTH CAROLINA CIVIL PREPAREDNESS ACT OF 1951" AND ENACTING A NEW CHAPTER 166A IN LIEU THEREOF RELATING TO CIVIL PREPAREDNESS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 166 of the General Statutes entitled "North Carolina Civil Preparedness Act of 1951" is hereby repealed.

Sec. 2. A new Chapter 166A of the General Statutes is hereby enacted to read as follows:

"§ 166A-1. *Short title.*—This Chapter may be cited as 'North Carolina Civil Preparedness Act of 1977'.

"§ 166A-2. *Purposes.*—The purposes of this Chapter are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to and recovery from natural or man-made disasters or hostile military or paramilitary action and to:

(a) reduce vulnerability of people and property of this State to damage, injury, and loss of life and property;

(b) prepare for prompt and efficient rescue, care and treatment of threatened or affected persons;

(c) provide for the rapid and orderly rehabilitation of persons and restoration of property; and

(d) provide for cooperation and coordination of activities relating to emergency and disaster mitigation, preparedness, response and recovery among agencies and officials of this State and with similar agencies and officials of other states, with local and federal governments, with interstate organizations and with other private and quasi-official organizations.

"§ 166A-3. *Limitations.*—Nothing in this act shall be construed to:

(a) interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including but not limited to radio and television stations, wire services, and newspapers, may be requested to transmit or print public service messages furnishing information or instructions in connection with an emergency, disaster or war; or

(b) limit, modify or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him under the Constitution, statutes, or common law of this State independent of, or in conjunction with, any provisions of this Chapter.

"§ 166A-4. *Definitions.*—The following words and phrases as used in this Chapter shall have the following meanings:

(a) 'Civil preparedness.' Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which include the never-ending preparedness cycle of prevention, mitigation, warning, movement, shelter, emergency assistance and recovery.

(b) 'Civil preparedness agency.' A State or local governmental agency charged with coordination of all civil preparedness activities for its jurisdiction.

(c) 'Disaster.' An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military or paramilitary cause.

(d) 'Political subdivision.' Counties and incorporated cities, towns and villages.

"§ 166A-5. *State civil preparedness.*—The State civil preparedness program includes all aspects of preparations for, response to and recovery from war or peacetime disasters.

(a) Governor. The Governor shall have general direction and control of the State civil preparedness program and shall be responsible for carrying out the provisions of this Chapter.

(1) The Governor is authorized and empowered:

a. To make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him herein, with due consideration of the policies of the federal government.

b. To delegate any authority vested in him under this Chapter and to provide for the subdelegation of any such authority.

c. To cooperate and coordinate with the President and the heads of the departments and agencies of the federal government, and with other appropriate federal officers and agencies, and with the officers and agencies of other states and local units of government in matters pertaining to the civil preparedness of the State and nation.

d. To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service and other disaster relief organizations.

e. To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-10.

f. To utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the State and of the political subdivisions thereof. The officers and personnel of all such departments, offices and agencies are required to cooperate with and extend such services and facilities to the Governor upon request. This authority shall extend to a state of disaster, disaster, imminent threat of disaster or civil preparedness planning and training purposes.

g. To agree, when required to obtain federal assistance in debris removal, that the State will indemnify the federal government against any claim arising from the removal.

h. To sell, lend, lease, give, transfer or deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law, and to account to the State Treasurer for any funds received for such property.

(2) In the threat of or event of a disaster, or when requested by the governing body of any political subdivision in the State, the Governor may assume operational control over all or any part of the civil preparedness functions within this State.

(b) Secretary of Crime Control and Public Safety. The Secretary of Crime Control and Public Safety shall be responsible to the Governor for State civil preparedness activities and shall have:

(1) The power, as delegated by the Governor, to activate the State and local plans applicable to the areas in question and he shall be empowered to authorize and direct the deployment and use of any personnel and forces to which the plan or plans apply, and the use or distribution of any

supplies, equipment, materials and facilities available pursuant to this Chapter or any other provision of law.

(2) Additional authority, duties, and responsibilities as may be prescribed by the Governor, and he may subdelegate his authority to the appropriate member of his department.

(c) Functions of State civil preparedness. The functions of the State civil preparedness program include:

(1) Coordination of the activities of all agencies for civil preparedness within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of civil preparedness programs.

(2) Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into departmental regulations and into executive orders of the Governor.

(3) Promulgation of standards and requirements for local plans and programs, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments.

(4) Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.

(5) Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for civil preparedness, maintaining data on these resources, and planning for the most efficient use thereof.

(6) Coordination of the use of any private facilities, services, and property.

(7) Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate; and

(8) Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Chapter and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.

(9) Making recommendations, as appropriate, for zoning, building and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of a disaster.

(10) Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network.

"§ 166A-6. *State of disaster.*—(a) The existence of a state of disaster may be proclaimed by the Governor, or by a resolution of the General Assembly if either of these finds that a disaster threatens or exists. Any state of disaster shall terminate by a proclamation of the Governor or resolution of the General Assembly. A proclamation or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State and the clerks of superior court in the area to which it applies.

(b) In addition to any other powers conferred upon the Governor by law, during the state of disaster, he shall have the following:

(1) to utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services;

(2) to take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Chapter and with the orders, rules and regulations made pursuant thereto;

(3) to take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety;

(4) subject to the provisions of the State Constitution to relieve any public official having administrative responsibilities under this Chapter of such responsibilities for wilful failure to obey an order, rule or regulation adopted pursuant to this Chapter.

(c) In addition, during a state of disaster, with the concurrence of the Council of State, the Governor has the following powers:

(1) to direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, to prescribe routes, modes of transportation, and destinations in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(2) to establish a system of economic controls over all resources, materials and services to include food, clothing, shelter, fuel, rents and wages, including the administration and enforcement of any rationing, price freezing or similar federal order or regulation;

(3) to regulate and control the flow of vehicular and pedestrian traffic, the congregation of persons in public places or buildings, lights and noises of all kinds and the maintenance, extension and operation of public utility and transportation services and facilities;

(4) to waive a provision of any regulation or ordinance of a State agency or a local governmental unit which restricts the immediate relief of human suffering;

(5) to use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of a disaster, and to reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so requires and the contingency and emergency funds are insufficient or inappropriate;

(6) to perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population;

(7) to appoint or remove an executive head of any State agency or institution the executive head of which is regularly selected by a State board or commission.

A. Such an acting executive head will serve during:
1. the physical or mental incapacity of the regular office holder, as determined by the Governor after such inquiry as the Governor deems appropriate;
2. the continued absence of the regular holder of the office; or
3. a vacancy in the office pending selection of a new executive head.

B. An acting executive head of a State agency or institution appointed in accordance with this subdivision may perform any act and exercise any power which a regularly selected holder of such office could lawfully perform and exercise.

C. All powers granted to an acting executive head of a State agency or institution under this section shall expire immediately:
1. upon the termination of the incapacity as determined by the Governor of the officer in whose stead he acts;
2. upon the return of the officer in whose stead he acts; or
3. upon the selection and qualification of a person to serve for the unexpired term, or the selection of an acting executive head of the agency or institution by the board or commission authorized to make such selection, and his qualification.

(8) to procure, by purchase, condemnation, seizure or by other means to construct, lease, transport, store, maintain, renovate or distribute materials and facilities for civil preparedness without regard to the limitation of any existing law.

"§ 166A-7. *County and municipal civil preparedness.*—(a) The governing body of each county is responsible for civil preparedness, as defined in G.S. 166A-4, within the geographical limits of such county. All civil preparedness efforts within the county will be coordinated by the county, including activities of the municipalities within the county.

(1) The governing body of each county is hereby authorized to establish and maintain a civil preparedness agency for the purposes contained in G.S. 166A-2.

(2) The governing body of each county which establishes a civil preparedness agency pursuant to this authorization will appoint a coordinator who will have direct responsibility for the organization, administration and operation of the county program and will be subject to the direction and guidance of such governing body.

(3) In the event any county fails to establish a civil preparedness agency, and the Governor, in his discretion, determines that a need exists for such a civil preparedness agency, then the Governor is hereby empowered to establish a civil preparedness agency within said county.

(b) All incorporated municipalities are authorized to establish and maintain civil preparedness agencies subject to coordination by the county. Joint agencies composed of a county and one or more municipalities within its borders may be formed.

(c) Each county and incorporated municipality in this State is authorized to make appropriations for the purposes of this Chapter and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues, whose use is not otherwise restricted by law.

(d) In carrying out the provisions of this Chapter each political subdivision is authorized:

(1) to appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for civil preparedness purposes and to provide for the health and safety of persons and property, including emergency assistance, consistent with this Chapter;

(2) to direct and coordinate the development of civil preparedness plans and programs in accordance with the policies and standards set by the State;

(3) to assign and make available all available resources for civil preparedness purposes for service within or outside of the physical limits of the subdivision; and

(4) to delegate powers in a local state of emergency under G.S. 166A-8 to an appropriate official.

(e) Each county which establishes a civil preparedness agency pursuant to State standards and which meets requirements for local plans and programs may be eligible to receive State financial assistance. Such financial assistance for the maintenance and operation of a county civil preparedness program will not exceed one thousand dollars ($1,000) for any fiscal year and is subject to an appropriation being made for this purpose. Eligibility of each county will be determined annually by the State.

"§ 166A-8. *Local emergency authorizations.*—Procedures governing the declaration of a local state of emergency:

(a) A local state of emergency may be declared for any disaster, as defined in G.S. 166A-4 under the provisions of Article 36A of G.S. Chapter 14.

(b) Such a declaration shall activate the local ordinances authorized in G.S. 14-288.12 through G.S. 14-288.14 and any and all applicable local plans, mutual assistance compacts and agreements and shall also authorize the furnishing of assistance thereunder.

(c) The timing, publication, amendment and recision of local 'state of emergency' declarations shall be in accordance with the local ordinance.

"§ 166A-9. *Accept services, gifts, grants and loans.*—(a) Whenever the federal government or any agency or officer thereof or any person, firm or corporation shall offer to the State, or through the State to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant or loan, for the purposes of civil preparedness, the State acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its governing body, may accept such offer. Upon such acceptance the Governor of the State or governing body of such political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the State or of such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

"§ 166A-10. *Establishment of mutual aid agreements.*—(a) The Governor may establish mutual aid agreements with other states and with the federal government provided that any special agreements so negotiated are within the Governor's authority.

(b) The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal civil preparedness aid and assistance. Such agreements shall be consistent with the State civil preparedness program and plans.

(c) The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal civil preparedness aid and assistance.

(d) Mutual aid agreements may include but are not limited to the furnishing or exchange of such supplies, equipment, facilities, personnel and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel and similar items; and on such terms and conditions as deemed necessary.

"§ 166A-11. *Compensation.*—(a) Compensation for services or for the taking or use of property shall be only to the extent that legal obligations of individual citizens are exceeded in a particular case and then only to the extent that the claimant has not been deemed to have volunteered his services or property without compensation.

(b) Compensation for property shall be only if the property was commandeered, seized, taken, condemned, or otherwise used in coping with a disaster and this action was ordered by the Governor. The State shall make compensation for the property so seized, taken or condemned on the following basis:

(1) In case property is taken for temporary use, the Governor, within 30 days of the taking, shall fix the amount of compensation to be paid for such damage or failure to return. Whenever the Governor shall deem it advisable for the State to take title to property taken under this section, he shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of said notice with the Secretary of State.

(2) If the person entitled to receive the amounts so determined by the Governor as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, he shall be paid seventy-five per centum (75%) of such amount and shall be entitled to recover from the State of North Carolina in an action brought in the superior court in the county of residence of claimant, or in Wake County, in the same manner as other condemnation claims are brought, within three years after the date of the Governor's award.

"§ 166A-12. *Nondiscrimination in civil preparedness.*—State and local governmental bodies and other organizations and personnel who carry out civil preparedness functions under the provisions of this Chapter are required to do so in an equitable and impartial manner. Such State and local governmental bodies, organizations and personnel shall not discriminate on the grounds of race, color, religion, nationality, sex, age or economic status in the distribution of supplies, the processing of applications and other relief and assistance activities.

"§ 166A-13. *Civil preparedness personnel.*—(a) No person shall be employed or associated in any capacity in any civil preparedness agency established under this Chapter if that person:

(1) advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State;

(2) advocates or has advocated the overthrow of any government in the United States by force or violence;

(3) has been convicted of any subversive act against the United States;

(4) is under indictment or information charging any subversive act against the United States; or

(5) has ever been a member of the Communist Party. Each person who is appointed to serve in any civil preparedness agency shall, before entering upon his duties, take a written oath before a person authorized to administer oaths in this State, which oath shall be substantially as follows:

'I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of North Carolina, against all enemies, foreign and domestic; and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I ever knowingly been, a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such time as I am a member of the State Civil Preparedness Agency I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence, so help me God.'

(b) No position created by or pursuant to this Chapter shall be deemed an office within the meaning of Article 6, Section 9 of the Constitution of North Carolina.

"§ 166A-14. *Immunity and exemption.*—(a) All functions hereunder and all other activities relating to civil preparedness are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence or bad faith, any civil preparedness worker complying with or reasonably attempting to comply with this Chapter or any order, rule or regulation promulgated pursuant to the provisions of this Chapter or pursuant to any ordinance relating to any civil preparedness measures enacted by any political subdivision of the State, shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity.

(b) The rights of any person to receive benefits to which he would otherwise be entitled under this Chapter or under the Workmen's Compensation Law or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress shall not be affected by performance of civil preparedness functions.

(c) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized civil preparedness worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during a state of disaster.

(d) As used in this section, the term 'civil preparedness worker' shall include any full or part-time paid, volunteer or auxiliary employee of this State or other states, territories, possessions or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof or of any agency or organization performing civil preparedness services at any

place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof.

(e) Any civil preparedness worker, as defined in this section, performing civil preparedness services at any place in this State pursuant to agreements, compacts or arrangements for mutual aid and assistance to which the State or a political subdivision thereof is a party, shall possess the same powers, duties, immunities and privileges he would ordinarily possess if performing his duties in the State, or political subdivision thereof in which normally employed or rendering services.

"§ 166A-15. *No private liability.*—Any person, firm or corporation owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property for the purpose of sheltering, protecting, safeguarding or aiding in any way persons shall, together with his successors in interest, if any, not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss or damage resulted from, through or because of the use of the said real or personal property for any of the above purposes.

"§ 166A-16. *Severability.*—If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1515 CHAPTER 849

AN ACT TO TRANSFER THE COMMISSION OF INDIAN AFFAIRS TO THE DEPARTMENT OF ADMINISTRATION UNDER A TYPE II TRANSFER AS DEFINED G.S. 143A-6.

The General Assembly of North Carolina enacts:

Section 1. The Commission of Indian Affairs, created by Chapter 71 of the General Statues, is hereby transferred to the Department of Administration by a Type II transfer as defined G.S. 143A-6. Chapter 71 of the General Statutes is repealed in its entirety, and Article 9 of Chapter 143B of the General Statutes is amended by the addition of a new Part to read as follows:

"PART 13.

"North Carolina State Commission of Indian Affairs.

"§ 143B-400.1. *Creation; name.*—There is hereby created and established a commission to be known as the North Carolina State Commission of Indian Affairs of the Department of Administration.

"§ 143B-400.2. *Purposes for creation.*—The purposes of the commission shall be to deal fairly and effectively with Indian affairs; to bring local, State, and federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of North Carolina; to provide aid and protection for Indians as needs are demonstrated; to prevent undue hardships; to assist Indian communities in social and economic

development; and to promote recognition of and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans.

"§ 143B-400.3. *Duties; use of funds.*—It shall be the duty of the commission to study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs; to investigate relief needs of Indians of North Carolina and to provide technical assistance in the preparation of plans for the alleviation of such needs; to confer with appropriate officials of local, State, and federal governments and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in North Carolina; to cooperate with and secure the assistance of the local, State, and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government to the end that the State Commission of Indian Affairs secure the full benefit of such programs; to review all proposed or pending State legislation and amendments to existing State legislation affecting Indians in North Carolina; to conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the commission; to study the existing status of recognition of all Indian groups, tribes, and communities presently existing in the State of North Carolina; and to establish appropriate procedures to provide for legal recognition by the State of presently unrecognized groups, and to initiate procedures for their recognition by the federal government.

"§ 143B-400.4. *Membership; term of office; chairman; compensation.*—(a) The State Commission of Indian Affairs shall consist of the Speaker of the House of Representatives, the Lieutenant Governor, the Secretary of Human Resources, the Director of the State Employment Security Commission, the Secretary of Administration, the Secretary of Natural and Economic Resources, and the Commissioner of Labor. Fifteen Indian members shall be selected by tribal or community consent from among the Coharie, Cumberland, Haliwa, Lumbee, and Waccamaw Siouan, and the Native Americans located in Guilford and Mecklenburg Counties. The Coharie shall have two members; the Cumberland, two; the Haliwa, two; the Lumbees, three; the Waccamaw Siouan, two; the Guilford Native Americans, two; and the Metrolina Native Americans, two.

If the Cherokees should choose to participate, then they shall have two members on the board of directors. The total membership will be 17.

(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by the tribe or group concerned and shall serve for three-year terms, except that at the first election of commission members by tribes and groups, one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from each tribe or group to a three-year term. Thereafter, commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of

the term of the member causing the vacancy. The Governor shall appoint a chairman of the commission from among the Indian members of the commission, subject to ratification by the full commission.

(c) Commission members who are seated by virtue of their office within the State government shall be compensated at the rate specified in G.S. 138-6. Commission members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-3.1. Indian members of the commission shall be compensated at the rate specified in G.S. 138-5.

"§ 143B-400.5. *Meetings; quorum; proxy vote.*—(a) The commission shall meet quarterly, and at any other such time that it shall deem necessary. Meetings may be called by the chairman or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing prior to the meeting date.

(b) Simple majority of the Indian members of the commission and two members by virtue of their office within State government must be present to constitute a quorum.

(c) Proxy vote shall not be permitted.

"§ 143B-400.6. *Reports.*—The commission shall prepare a written annual report giving an account of its proceedings, transactions, findings, and recommendations. This report shall be submitted to the Governor and the legislature. The report will become a matter of public record and will be maintained in the State Historical Archives. It may also be furnished to such other persons or agencies as the commission may deem proper.

"§ 143B-400.7. *Fiscal records; clerical staff.*—Fiscal records shall be kept by the Secretary of Administration and will be subject to annual audit by a certified public accountant. The audit report will become a part of the annual report and will be submitted in accordance with the regulations governing preparation and submission of the annual report.

"§ 143B-400.8. *Executive director; employees.*—The commission may, subject to legislative or other funds that would accrue to the commission, employ an executive director to carry out the day-to-day responsibilities and business of the commission. The executive director, also subject to legislative or other funds that would accrue to the commission, may hire additional staff and consultants to assist in the discharge of his responsibilities, as determined by the commission. The executive director shall not be a member of the commission, and should be of Indian extraction.

"§ 143B-400.9. *Reports.*—The commission shall prepare a written annual report giving an account of its proceedings, transactions, findings, and recommendations. This report shall be submitted to the Governor and the legislature. The report will become a matter of public record and will be maintained in the State Historical Archives. It may also be furnished to such other persons or agencies as the commission may deem proper."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1358 **CHAPTER 850**

AN ACT TO AMEND G.S. 66-58 TO PROVIDE THAT VOCATIONAL EDUCATIONAL NURSERY CLASSES MAY SELL BEDDING PLANTS GROWN AS A PART OF THE PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(c) as it appears in the 1975 Supplement to 1975 Replacement Volume 2C of the General Statutes is hereby amended by adding a new subdivision (16) to read as follows:

"(16) The sale by public schools of surplus bedding plants grown as a part of vocational education nursery classes".

Sec. 2. This act shall apply only to Columbus County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 84 **CHAPTER 851**

AN ACT TO AMEND THE RULES OF EVIDENCE IN RAPE CASES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 8 of the General Statutes is hereby amended by adding thereto a new Article to be numbered 7A which reads as follows:

"ARTICLE 7A.

"Restrictions on Evidence in Rape Cases.

"§ 8-58.1. *Restrictions on evidence in rape cases.*—(a) As used in this section, the term 'sexual behavior' means sexual activity of the complainant other than the sexual act which is at issue in the indictment on trial.

(b) The sexual behavior of the complainant is irrelevant to any issue in the prosecution unless such behavior:

(1) was between the complainant and the defendant; or

(2) is evidence of specific instances of sexual behavior offered for the purpose of showing that the act or acts charged were not committed by the defendant; or

(3) is evidence of a pattern of sexual behavior so distinctive and so closely resembling the defendant's version of the alleged encounter with the complainant as to tend to prove that such complainant consented to the act or acts charged or behaved in such a manner as to lead the defendant reasonably to believe that the complainant consented; or

(4) is evidence of sexual behavior offered as the basis of expert psychological or psychiatric opinion that the complainant fantasized or invented the act or acts charged.

(c) No evidence of sexual behavior shall be introduced at any time during the trial of a charge of rape or any lesser-included offense thereof, nor shall any reference to any such behavior be made in the presence of the jury, unless and until the court has determined that such behavior is relevant under subsection (b). Before any questions pertaining to such evidence are asked of any witness, the proponent of such evidence shall first apply to the court for a determination of the relevance of the sexual behavior to which it relates. The proponent of

such evidence may make application either prior to trial pursuant to G.S. 15A-952, or during the trial at the time when the proponent desired to introduce such evidence. When application is made, the court shall conduct an in-camera hearing, which shall be transcribed, to consider the proponent's offer of proof and the arguments of counsel, including any counsel for the complainant, to determine the extent to which such behavior is relevant. In the hearing, the proponent of the evidence shall establish the basis of admissibility of such evidence. If the court finds that the evidence is relevant, it shall enter an order stating that the evidence may be admitted and the nature of the questions which will be permitted.

(d) The record of the in-camera hearing and all evidence relating thereto shall be open to inspection only by the parties, the complainant, their attorneys and the court and its agents, and shall be used only as necessary for appellate review. At any probable cause hearing, the judge shall take cognizance of the evidence, if admissible, at the end of the in-camera hearing without the questions being repeated or the evidence being resubmitted in open court."

Sec. 2. This act shall become effective on January 1, 1978, and shall apply to offenses committed on and after that date.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 759 CHAPTER 852

AN ACT TO AMEND THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973, G.S. 113A-50 ET SEQ. TO PROVIDE THAT ACTIONS FOR COLLECTION OF CIVIL PENALTIES MAY BE REFERRED TO THE ATTORNEY GENERAL IN THIRTY DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-64(a), as it now appears in 1975 Replacement Volume 3A of the General Statutes, is amended by deleting from line 7 of presently-existing subdivision (2) the number "60" and by inserting instead number "30".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 827 CHAPTER 853

AN ACT MAKING THE BREAKING INTO PAPER CURRENCY-OPERATED DISPENSING MACHINES A FELONY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes of North Carolina is hereby amended by adding a section to be designated as G.S. 14-56.3 to read as follows:

"§ 14-56.3. *Breaking into paper currency machines.*—Any person, who with intent to steal any monies therein forcibly breaks into any vending or dispensing machine or device which is operated or activated by the use, deposit or insertion of United States paper currency, shall be guilty of a misdemeanor, but if such person has previously been convicted of violating this section, such person shall be guilty of a felony."

Sec. 2. There shall be posted on the machines referred to in G.S. 14-56.3 a decal stating that it is a crime to break into paper currency machines.

Sec. 3. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 319 **CHAPTER 854**

AN ACT TO AUTHORIZE THE STATE BOARD OF ALCOHOLIC CONTROL TO ISSUE SPECIAL PERMITS FOR THE SALE OF INTOXICATING LIQUORS BY CERTAIN PERSONS NOT HOLDING WHOLESALE OR RETAIL PERMITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18A of the General Statutes is amended by adding a new G.S. 18A-42.1 to read as follows:

"§ 18A-42.1. *Special permit; inheritance; bankruptcy; confiscation; individuals and governmental agencies.*—Whenever any person not in possession of a permit for the sale of malt beverages or wine (fortified or unfortified), whether wholesale or retail, or any governmental agency, State or federal, shall legally come into possession and ownership of any quantity of tax paid intoxicating liquor, said person or agency may apply to the State Board of Alcoholic Control for a special permit authorizing the sale, or disposition otherwise, of said intoxicating liquor at a time and place, and pursuant to procedures, designated by the State Board; and the State Board shall have the authority to issue such permits.

By way of illustration, but not limitation, the State Board may issue permits for the disposition of intoxicating liquors by persons or governmental agencies gaining possession and ownership of same through inheritance, bankruptcy, confiscation and liens for nonpayment of taxes."

Sec. 2. G.S. 18A-21 is amended by deleting the last sentence of subsection (a) and by substituting in lieu thereof the following:

"Any malt beverages seized for being transported or possessed illegally shall be destroyed. Any wine (fortified or unfortified) seized for being transported or possessed illegally shall be destroyed or sold pursuant to the provisions of G.S. 18A-42.1. In the event that any wine (fortified or unfortified) is sold by law enforcement officers pursuant to the provisions of G.S. 18A-42.1, any proceeds derived from such sales shall be paid over to the treasurer or the proper officer in the county who receives fines and forfeitures, to be used for the school fund of the county."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 467 **CHAPTER 855**

AN ACT AMENDING CHAPTER 55B, THE PROFESSIONAL CORPORATION ACT, SO AS TO ALLOW LIMITED OWNERSHIP INTEREST IN SUCH CORPORATION BY NONPROFESSIONALS OF ENGINEERING, ARCHITECTURE AND LANDSCAPE ARCHITECTURE FIRMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 55B of the General Statutes, as the same appears in Volume 2B of the 1975 Replacement to the General Statutes, is hereby amended as follows:

1. By rewriting subparagraph (5) of G.S. 55B-2 to read as follows:

"(5) 'Professional Corporation' means a corporation which is engaged in rendering the professional services as herein specified and defined, pursuant to a certificate of registration issued by the licensing board regulating the profession or practice, and which has as its shareholders only those individuals permitted by G.S. 55B-6 of this act to be shareholders and which designates itself as may be required by this statute, and which is organized under the provisions of this Chapter and of Chapter 55, the Business Corporation Act."

2. By adding immediately after the period in subsection (2) of G.S. 55B-4, the following sentence:

"provided, that as to professional corporations rendering services as defined in Chapters 83, 89A and 89C, limited ownership of shares by non-licensees shall be permitted as set forth in G.S. 55B-6."

3. By rewriting subsection (4) of G.S. 55B-4 to read as follows:

"(4) The articles of incorporation, in addition to the requirements of Chapter 55, shall designate the personal services to be rendered by the professional corporation and shall be accompanied by a certification by the appropriate licensing board that the ownership of the shares of stock is in compliance with the requirements of G.S. 55B-4(2) and G.S. 55B-6."

4. By adding immediately after the period on line 7 and immediately before the word "Any" in G.S. 55B-6, the following language and punctuation:

"Provided, it shall be lawful in the case of professional corporations rendering services as defined in Chapters 83, 89A and 89C, for non-licensed employees of such corporation to own not more than one-third of the total issued and outstanding shares of such corporation. Upon the transfer of any shares of such corporation to a non-licensed employee of such corporation, the corporation shall inform the appropriate licensing board of the name and address of the transferee and the number of shares issued to such nonprofessional transferee."

Sec. 2. This act shall become effective from and after July 1, 1977, and shall apply to professional corporations already in existence or organized after such effective date.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 525

CHAPTER 856

AN ACT TO REQUIRE NEWSPAPERS TO CHARGE THE COMPARABLE RATE FOR ADVERTISEMENTS TO ALL PERSONS RUNNING FOR PUBLIC OFFICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.18 is hereby amended by designating the existing provisions thereof as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) A newspaper, magazine, or other advertising medium shall not charge any candidate, treasurer, political committee, political party, or individual for any advertising for or in support of or in opposition to any candidate, political committee or political party at a rate higher than the comparable rate charged to other persons for advertising of comparable frequency and volume; and every candidate, treasurer, political party or individual, with respect to political advertising, shall be entitled to the same discounts afforded by the advertising medium to other advertisers under comparable conditions and circumstances."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 589

CHAPTER 857

AN ACT TO AMEND ARTICLE 13, CHAPTER 130, NORTH CAROLINA GENERAL STATUTES, RELATING TO WATER AND SEWER SANITATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-160 is hereby amended by designating the existing text of said section as subsection (a) and by adding new subsections (b), (c) and (d) to read as follows:

"(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of G.S. 130-17(b), any sanitary sewage disposal system subject to approval under rules and regulations of the Commission for Health Services shall be reviewed and approved under rules and regulations of a local board of health in the following circumstances:

(1) The local board of health, on its own motion, has requested the Commission for Health Services to review its proposed regulations concerning sanitary sewage disposal systems.

(2) The Commission for Health Services has found that the regulations of the local board of health concerning sanitary sewage disposal systems are substantially equivalent to the commission's regulations, and are sufficient to safeguard the public health.

(c) The Commission for Health Services from time to time, upon its own motion or upon the request of a local board of health or upon the request of a citizen of an affected county, may review its findings under subsection (b) of this section. Subject to such review, the commission's finding that local regulations meet the requirements of subsection (b) of this section shall be binding and conclusive.

(d) The relationship between State and local regulations concerning sanitary sewage disposal systems shall continue to be governed by G.S. 130-17(b) except

in those cases where local regulations have been reviewed and approved pursuant to subsection (b) of this section."

Sec. 2. G.S. 130-17(b) is hereby amended by inserting at the beginning of the second sentence of said subsection the words, "Subject to the provisions of G.S. 130-160," and by modifying the capitilization accordingly, so that said second sentence will read as follows:

"Subject to the provisions of G.S. 130-160, where such rules and regulations deal with subject matter also covered by rules and regulations of the Commission for Health Services, and there is an emergency, or peculiar local condition or circumstance, requiring such action in the interest of public health, the rules and regulations of the local boards may be more stringent, but not less stringent, than those of the commission."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 768 CHAPTER 858

AN ACT TO AMEND THE OIL POLLUTION CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.85, as the same appears in the 1975 Cumulative Supplement to Volume 3C, is amended by deleting the word "office" in lines 3, 6 and 8 and substituting therefor the word "Department".

Sec. 2. G.S. 143-215.88, as the same appears in the 1975 Cumulative Supplement to Volume 3C, is amended by deleting the reference "G.S. 143-215.84(b)" in line 12 and substituting therefor the reference "G.S. 143-215.83(b)".

Sec. 3. G.S. 143-215.94, as it appears in the 1974 Replacement Volume 3C, is amended by deleting the reference "G.S. 143-215.89 through G.S. 143-215.92(a), G.S. 143-215.94" in line 3 and substituting therefor the following reference: "G.S. 143-215.88 through G.S. 143-215.91(a), G.S. 143-215.93".

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 820 CHAPTER 859

AN ACT TO AUTHORIZE THE LEVY OF PUNITIVE DAMAGES AGAINST ANY PERSON, FIRM, OR CORPORATION THAT WILLFULLY OR NEGLIGENTLY BURNS ANOTHER'S TIMBER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-539.1 is hereby rewritten to read as follows:

"§ 1-539.1. *Damages for unlawful cutting or removal of timber; misrepresentation of property lines.*—(a) Any person, firm or corporation not being the bona fide owner thereof or agent of the owner who shall without the consent and permission of the bona fide owner enter upon the land of another and injure, cut or remove any valuable wood, timber, shrub or tree therefrom, shall be liable to the owner of said land for double the value of such wood, timber, shrubs or trees so injured, cut or removed.

(b) If any person, firm or corporation shall willfully and intentionally set on fire, or cause to be set on fire, in any manner whatever, any valuable wood, timber or trees on the lands of another, such person, firm or corporation shall be liable to the owner of said lands for double the value of such wood, timber or trees damaged or destroyed thereby.

(c) Any person, firm or corporation cutting timber under contract and incurring damages as provided in subsection (a) of this section as a result of a misrepresentation of property lines by the party letting the contract shall be entitled to reimbursement from the party letting the contract for damages incurred."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 841 CHAPTER 860

AN ACT TO AMEND G.S. 15A-1002(a) SO AS TO REQUIRE SPECIFICITY IN MOTIONS QUESTIONING THE CAPACITY OF A CRIMINAL DEFENDANT TO PROCEED.

The General Assembly of North Carolina enacts:

Section 1. North Carolina General Statute 15A-1002(a) is hereby amended and rewritten to read as follows:

"(a) The question of the capacity of the defendant to proceed may be raised at any time on motion by the prosecutor, the defendant, the defense counsel, or the court. The motion shall detail the specific conduct that leads the moving party to question the defendant's capacity to proceed."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. B. 842 CHAPTER 861

AN ACT TO PRESCRIBE THE ESSENTIALS OF BILLS OF INDICTMENT FOR RAPE.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes, Chapter 15, Article 15 ("Indictment"), to read as follows:

"§ 15-144.1. *Essentials of bill for rape.*—(a) In indictments for rape it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the offense of rape was allegedly committed, and the averment "with force and arms", as is now usual, it is sufficient in describing rape to allege that the accused person unlawfully, wilfully, and feloniously did ravish and carnally know the victim, naming her, by force and against her will and concluding as is now required by law. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for rape in the first degree and will support a verdict of guilty of rape in the first degree, rape in the second degree, assault with intent to commit rape or assault on a female.

(b) If the victim is a virtuous female child under the age of twelve years it is sufficient to allege that the accused unlawfully, wilfully, and feloniously did carnally know and abuse a virtuous child under twelve, naming her, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for the rape of a virtuous female child under the age of twelve years and all lesser included offenses."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

H. B. 1325 CHAPTER 862

AN ACT TO ELIMINATE IMPRISONMENT AS PUNISHMENT FOR A FIRST OFFENSE OF MISDEMEANOR POSSESSION OF A SCHEDULE VI CONTROLLED SUBSTANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95(d)(4), as it appears in the 1975 Replacement of Volume 2C, is amended by deleting from the second and third lines the words, "sentenced to a term of imprisonment of not more than six months or"; by substituting in the third line the word, "one" for the word, "five"; by substituting in the fourth line the amount, "($100.00)" for the amount, "($500.00)"; and by deleting from the fourth line the words, "or both in the discretion of the court".

Sec. 2. G.S. 90-95(e), as it appears in the 1975 Replacement of Volume 2C, is amended by changing the period following subdivision (6) to a semicolon and by adding a new subdivision (7) to read as follows:

"(7) If any person commits an offense under this Article for which the prescribed punishment includes only a fine, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars ($500.00), or both in the discretion of the court."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 127 CHAPTER 863

AN ACT TO REVISE AND CLARIFY CERTAIN PROVISIONS OF THE MACHINERY ACT RELATING TO THE POWERS AND DUTIES OF THE TAX SUPERVISOR, BOARDS OF EQUALIZATION AND REVIEW AND BOARDS OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 105-322 is rewritten as follows:

"§ 105-322. *County board of equalization and review.*—(a) Personnel. Except as otherwise provided herein, the board of equalization and review of each county shall be composed of the members of the board of county commissioners.

Upon the adoption of a resolution so providing, the board of commissioners is authorized to appoint a special board of equalization and review to carry out the duties imposed under this section. The resolution shall provide for the membership, qualifications, terms of office and the filling of vacancies on the board. The board of commissioners shall also designate the chairman of the special board. The resolution shall be adopted not later than the first Monday in March of the year for which it is to be effective and shall continue in effect until revised or rescinded. It shall be entered in the minutes of the meeting of the board of commissioners and a copy thereof shall be forwarded to the Department of Revenue within 15 days after its adoption.

Nothing in this subsection (a) shall be construed as repealing any law creating a special board of equalization and review or creating any board charged with the duties of a board of equalization and review in any county."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 128 CHAPTER 864

AN ACT TO AMEND AND CLARIFY THE PROVISIONS OF THE MACHINERY ACT.

The General Assembly of North Carolina enacts:

Section 1. Subsections (a)(4), (b), (d), (f), (i) and (l) of G.S. 105-312 are hereby rewritten as follows:

"(4) The phrase 'substantial understatement' as used in these definitions shall be interpreted to mean the omission of a material portion of the value, quantity, or other measurement of taxable property; the determination of materiality in each case shall be made by the tax supervisor, subject to the taxpayer's right to review of the determination by the county board of equalization and review or board of commissioners and appeal to the Property Tax Commission.

(b) Duty to discover and assess unlisted property. It shall be the duty of the tax supervisor to see that all property not properly listed during the regular listing period be listed, assessed and taxed as provided in this Subchapter. The tax supervisor shall file reports of such discoveries with the board of commissioners in such manner as the board may require.

(d) Procedure for listing, appraising, and assessing discovered property. Subject to the provisions of subsection (c), above, and the presumptions established by subsection (f), below, discovered property shall be listed by the tax supervisor in the name of the person required by G.S. 105-302 or G.S. 105-306. The discovery shall be deemed to be made on the date that the abstract is made or corrected pursuant to subsection (e) of this section. The tax supervisor shall also make a tentative appraisal of the discovered property in accordance with the best information available to him.

When a discovery is made, the tax supervisor shall mail a notice to the person in whose name the discovered property has been listed. The notice shall contain the following information:

(1) the name and address of the person in whose name the property is listed;

(2) a brief description of the property;

(3) a tentative appraisal of the property;

(4) a statement to the effect that the listing and appraisal will become final unless written exception thereto is filed with the tax supervisor within 30 days from date of the notice.

Upon receipt of a timely exception to the notice of discovery, the tax supervisor shall arrange a conference with the taxpayer to afford him the opportunity to present any evidence or argument he may have regarding the discovery. Within 15 days after the conference, the tax supervisor shall give written notice to the taxpayer of his final decision. Written notice shall not be required, however, if the taxpayer signs an agreement accepting the listing and appraisal. In cases in which agreement is not reached, the taxpayer shall have 15 days from the date of the notice to request review of the decision of the tax supervisor by the board of equalization and review or, if that board is not in session, by the board of commissioners. Unless the request for review by the county board is given at the conference, it shall be made in writing to the tax supervisor. Upon receipt of a timely request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, shall be followed.

(f) Presumptions. When property is discovered and listed to a taxpayer in any year, it shall be presumed that it should have been listed by the same taxpayer for the preceding five years unless the taxpayer shall produce satisfactory evidence that the property was not in existence, that it was actually listed for taxation, or that it was not his duty to list the property during those years or some of them under the provisions of G.S. 105-302 and G.S. 105-306. If it is shown that the property should have been listed by some other taxpayer during some or all of the preceding years, the property shall be listed in the name of the appropriate taxpayer for the proper years, but the discovery shall still be deemed to have been made as of the date that the tax supervisor first listed it.

(i) Collection. For purposes of tax collection and foreclosure, the total figure obtained and recorded as provided in subsection (h), above, shall be deemed to be a tax for the fiscal year beginning on July 1 of the calendar year in which the property was discovered. The schedule of discounts for prepayment and interest for late payment applicable to taxes for the fiscal year referred to in the preceding sentence shall apply when the total figure on the single tax receipt is paid. Notwithstanding the time limitations contained in G.S. 105-381, any property owner who is required to pay taxes on discovered property as herein provided shall be entitled to a refund of any taxes erroneously paid on the same property to other taxing jurisdictions in North Carolina. Claim for refund shall be filed in the county where such tax was erroneously paid as provided by G.S. 105-381.

(l) Application to municipal corporations. The provisions of this section shall apply to all cities, towns, and other municipal corporations having the power to tax property. Such governmental units shall designate an appropriate municipal officer to exercise the powers and duties assigned by this section to the tax supervisor, and the powers and duties assigned to the board of county commissioners shall be exercised by the governing body of the unit. When the tax supervisor discovers property having a taxable situs in a municipal corporation, he shall send a copy of the notice of discovery required by subsection (d) to the governing body of the municipality together with such other information as may be necessary to enable the municipality to proceed."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 392 CHAPTER 865

AN ACT TO REQUIRE SPECIAL TESTS FOR PERSONS WISHING TO BE LICENSED TO OPERATE A MOTORCYCLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7 is hereby amended by adding a new subsection (a1) thereto to read as follows:

"(a1) No operator's or chauffeur's license issued on or after January 1, 1978, shall authorize the licensee to operate a motorcycle unless the license has been appropriately endorsed by the division to indicate that the licensee has passed special road and written (or oral) tests demonstrating competence to operate a motorcycle. Any person licensed prior to January 1, 1978, who has operated a motorcycle for at least two years prior to that date, will be exempt from the provisions of this subsection upon filing with the Division of Motor Vehicles an affidavit attesting to said two years' experience."

Sec. 2. Nothing herein contained shall be construed to require or authorize the appropriation of additional funds to the Division of Motor Vehicles to implement the provisions of this act.

Sec. 3. This act shall not apply to motorcycles which are rated at 190 cc (cubic centimeter) or less.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 956 CHAPTER 866

AN ACT TO MAKE CERTAIN TECHNICAL AMENDMENTS TO THE STATE PERSONNEL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-4, as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended: (a) by adding a new sentence to subdivision (9) at the end thereof to read as follows:

"'Reinstatement' as used in this subdivision refers to the reemployment of a former State employee who separated from service in good standing."; and (b) by rewriting subdivision (11) to read as follows:

"(11) In cases where the commission finds discrimination or orders reinstatement or back pay whether (i) heard by the commission or (ii) appealed for limited review after settlement or (iii) resolved at the agency level, the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved."

Sec. 2. G.S. 126-5(b), as the same appears in the 1976 Interim Supplement to the General Statutes, is hereby amended and rewritten to read as follows:

"(b) The provisions of the Chapter shall not apply to public school superintendents, principals, teachers, other public school employees, and employees of the offices of the Governor and the Lieutenant Governor.

(c) Except as to Articles 6 and 7, the provisions of the Chapter shall not apply to instructional and research staff, physicians and dentists of The University of North Carolina; employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), G.S. 116-11(5), and G.S. 116-14; community colleges' employees whose salaries are fixed in accordance with the provisions of G.S. 115A-5 and G.S. 115A-14; members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis; officials or employees whose salaries are fixed by the Governor or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State or the Advisory Budget Commission or the General Assembly; employees of the General Assembly and its agencies and temporary employees of activities ancillary to the General Assembly; employees of the Judicial Department; blind or visually handicapped employees of the Department of Human Resources, Division of Services for the Blind, Business Enterprise Section, vending stand employees; constitutional officers of the State.

(d) Except as to the policies, rules and plans established by the commission pursuant to G.S. 126-4(1), G.S. 126-4(2), G.S. 126-4(3), G.S. 126-4(4), G.S. 126-4(5), G.S. 126-4(6), G.S. 126-7, and except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

(1) An employee of the State of North Carolina who has not been continuously employed by the State of North Carolina for the immediate five preceding years.

(2) The chief deputy or chief administrative assistant to the head of each State department who is designated either by statute or by the administrative head to act for and perform all of the duties of such administrative head during his absence or incapacity.

(3) One confidential assistant and two confidential secretaries for each elected or appointed department head and one confidential secretary for each chief deputy or chief administrative assistant.

(4) Other deputies, administrative assistants, division or agency heads or other employees, by whatever title, that serve in policy-making positions and any confidential secretary or confidential assistant to any such deputy, administrative assistant, division or agency head or employee, such positions to be designated by the Governor or by each elected department head in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate by May 1 of the year in which the oath of office is administered to each Governor. In the event of a vacancy in the office of Governor or in a department headed by a member of the Council of State, the person who succeeds to or is appointed or elected to fill such unexpired term shall make such designations in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 120 days after the oath of office is administered to such person.

(5) Any employee holding a position which is created or transferred to a different department, or in which a reorganization of a department has occurred, after May 1 of the year in which the oath of office is administered to the Governor, and which is designated as a policy-making position by the Governor or by each elected department head; such designation to be made in a letter to the State Personnel Director, the Speaker of the North Carolina House

of Representatives, and the President of the North Carolina Senate within 120 days after such position is created, transferred, or in which reorganization has occurred.

(6) Subsequent to the designation of a policy-making position as exempt as hereinabove provided, the status of the position may be reversed and made subject to the provisions of this Chapter by the Governor or by an elected department head in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate."

Sec. 3. G.S. 126-5(c), as the same appears in the 1976 Interim Supplement to the General Statutes, is amended and rewritten to read as follows:

"(e) If an employee with five or more continuous years of service to the State in a subject position either transfers, on or after January 8, 1977, to a position designated as exempt or who occupied a position that prior to January 8, 1977, was subject to the State Personnel Act and that position is declared exempt on or after January 8, 1977, upon leaving such designated position, for reasons other than just cause, such employee shall have priority to any position that becomes available for which the employee is qualified. No employee shall be placed in an exempt position without prior written notification that such position is so designated."

Sec. 4. G.S. 126-5(d), as the same appears in the Interim Supplement to the General Statutes, is amended and rewritten to read as follows:

"(f) In case of dispute as to whether an employee is subject to the provisions of this Chapter, the question shall be investigated by the State Personnel Office and decided by the State Personnel Commission, and any appeal shall be to the Governor whose decision shall be final. Provided, however, if the Governor does not act on such appeal within 60 days then the decision of the State Personnel Commission shall be final."

Sec. 5. G.S. 126-5(e), as the same appears in the 1976 Interim Supplement to the General Statutes, is amended and rewritten to read as follows:

"(g) For the purposes of this section, a policy-making position is one in which the job duties include a significant input into and control over the final determination of a settled course of action affecting the level or nature of services of a defined governmental program. A position empowered with the authority to impose the final decision as to a settled course of action to be followed by an entire department, agency, or division is considered a policy-making position."

Sec. 6. G.S. 126-7, as the same appears in the 1976 Interim Supplement to the General Statutes, is amended and rewritten to read as follows:

"§ 126-7. *Automatic and merit salary increases for State employees.*—It shall be considered a part of the personnel policy of this State that salary increases as provided in the compensation plan shall be granted in accordance with a standard of efficiency as established by the State Personnel Commission. Each employee whose performance merits his retention in service shall be granted a salary increase in an amount corresponding to the increments between steps of the applicable salary range at least once each year until he reaches the third step of the salary range established for the class to which his position is assigned. Prior to July 1 of each biennium, each agency, board, commission,

department, or institution of State government subject to the provisions of this Article shall file with the State Personnel Director a written description of the plan or method it is currently following in awarding or allocating efficiency or merit salary increments. At the same time, each such agency, board, commission, department, or institution shall cause a copy thereof to be distributed to each employee. The State Personnel Director, with the approval of the State Personnel Commission, shall modify, alter or disapprove any such plan submitted to him which he deems not to be in accordance with the provisions of this Article. Within the limit of available funds, each employee meeting higher standards may be granted increases up to but not exceeding the maximum of the salary range established for the class to which his position is assigned. If, in addition to the salary ranges, the State Personnel Commission shall establish uniform provisions for a system of payments over and above the standard salary ranges on the basis of longevity in service, that plan of payments shall not be considered in applying this policy governing annual salary increments. The head of each department, bureau, agency, or commission, when making his budget request for the ensuing biennium, shall anticipate the funds which will be required during the biennium for the purpose of paying salary increments and shall include those amounts in his budget request. In no case shall the amount estimated for annual increments above the third step of the range exceed two-thirds of the sum which would be required to grant increments to all the personnel of the agency then receiving or who will receive a salary equal to or above the third step of the salary range. With the approval of the State Personnel Commission, State departments, bureaus, agencies, or commissions with 25 or less employees subject to the provisions of this Chapter may exceed the two-thirds restrictions herein provided."

Sec. 7. G.S. 126-16, as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 126-16. *Equal employment opportunity by State departments and agencies and local political subdivisions.*—All State departments and agencies and all local political subdivisions of North Carolina shall give equal opportunity for employment, without regard to race, religion, color, creed, national origin, sex, age, or physical disability to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall apply only to those persons above the age of 40 years and under the age of 65 years."

Sec. 8. Article 6 of Chapter 126 of the General Statutes is hereby amended by adding thereto a new section, to read as follows:

"§ 126-17. *Retaliation by State departments and agencies and local political subdivisions.*—No State department, agency, or local political subdivision of North Carolina shall retaliate against an employee for protesting alleged violations of G.S. 126-16."

Sec. 9. G.S. 126-22, as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 126-22. *Personnel files not subject to inspection under G.S. 132-6.*— Personnel files of State employees, former State employees, or applicants for State employment shall not be subject to inspection and examination as

authorized by G.S. 132-6. For purposes of this Article, a personnel file consists of any information gathered by the department, division, bureau, commission, council, or other agency subject to Article 7 of this Chapter which employs an individual, previously employed an individual, or considered an individual's application for employment, or by the office of State Personnel, and which information relates to the individual's application, selection or nonselection, promotions, demotions, transfers, leave, salary, suspension, performance evaluation forms, disciplinary actions, and termination of employment wherever located and in whatever form. Personnel files of former State employees who have been separated from State employment for 10 or more years may be open to inspection and examination except for papers and documents relating to demotions and to disciplinary actions resulting in the dismissal of the employee."

Sec. 10. G.S. 126-24, as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by deleting from line 1 of the section the words "State employee's" and by inserting in line 1 of subdivision (1) after the word "employee," and before the phrase "or his properly authorized agent," the words: "applicant for employment, former employee,"; and G.S. 126-24 is hereby further amended by inserting in line 4 of subdivision (5) after the word "inspected" and before the words "as necessary" the following: "or, in the case of an applicant for employment or a former employee, by the department head of the agency in which the record is maintained".

Sec. 11. G.S. 126-25, as the same appears in the 1976 Interim Supplement to the General Statutes, is hereby amended by inserting in line 2 thereof after the word "employee" and before the words "who objects" the following: ", former employee or applicant for employment" and by inserting in line 3 of that section after the word "employee" at the end of the line the following: ", former employee, or applicant for employment".

Sec. 12. Article 7 of Chapter 126 of the General Statutes is hereby amended by adding thereto a new section to read as follows:

"§ 126-29. *Access to material in file for agency hearing.*—A party to a quasi-judicial hearing of a State agency subject to Article 7 of this act, or a State agency subject to Article 7 of this act which is conducting a quasi-judicial hearing, may have access to relevant material in personnel files and may introduce copies of such material or information based on such material as evidence in the hearing either upon consent of the employee, former employee, or applicant for employment or upon subpoena properly issued by the agency either upon request of a party or on its own motion."

Sec. 13. G.S. 126-36, as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by inserting at the end of line 4 thereof after the words "forced upon him" the following: "in retaliation for opposition to alleged discrimination or".

Sec. 14. Article 8 of Chapter 126 of the General Statutes is hereby amended by adding thereto a new section to follow G.S. 126-37, to read as follows:

"§ 126-38. *Time limit for appeals.*—Any employee appealing any decision or action to the commission shall file a written statement of appeal with the commission or its designate no later than 30 days after receipt of notice of the decision or action which triggers the right of appeal."

Sec. 15. Article 8 of Chapter 126 of the General Statutes is hereby amended by adding thereto a new section, to follow G.S. 126-38, to read as follows:

"§ 126-39. *State employee defined.*—For the purposes of this Article, except for positions subject to competitive service and except for appeals brought under G.S. 126-16 and G.S. 126-25, the terms 'permanent State employee', 'permanent employee', 'State employee' or 'former State employee' as used in this Article shall mean a person who has been continuously employed by the State of North Carolina for five years at the time of the act, grievance, or employment practice complained of."

Sec. 16. G.S. 126-36, as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting on lines 1 and 2 the words "applicant for State employment or"; and further amend Article 8 of Chapter 126 of the General Statutes by adding thereto a new section to follow G.S. 126-36 to read as follows:

"§ 126-36.1. *Appeal to Personnel Commission by applicant for employment.*—Any applicant for State employment who has reason to believe that employment was denied in violation of G.S. 126-16 shall have the right to appeal directly to the State Personnel Commission."

Sec. 17. G.S. 126-4, as the same appears in the 1975 Cumulative Supplement to Volume 3A of the General Statutes, is amended: (a) by inserting the word "and" after the word "demotion" in subsection (6), and changing the comma after the word "suspension" in subsection (b) to a period and deleting the remainder of subsection (6), and, (b) by renumbering subsection (7) as subsection (8) and the remaining subsections accordingly; and by adding a new subsection (7) to read as follows:

"(7) The separation of employees."

Sec. 18. G.S. 126-45 is hereby repealed.

Sec. 19. Notwithstanding any other provision of the act, the power granted to the Governor and elected department heads to designate policy-making positions by G.S. 126-5 and, as the same is amended by Section 2 of this act, may be exercised anytime within 120 days of the effective date of this act as to positions created or transferred or in which there was a significant change in duties between January 8, 1977, and the effective date of this act.

Sec. 20. G.S. 126-4, as the same appears in the 1975 Cumulative Supplement to Volume 3A of the General Statutes, is amended by adding at the end thereof a new paragraph to read as follows:

"Such policies and rules shall not limit the power of any elected or appointed department head, in his discretion and upon his determination that it is in the best interest of the department, to transfer, demote, or separate a State employee who has not been continuously employed by the State of North Carolina for the immediate five preceding years."

Sec. 21. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1093 CHAPTER 867

AN ACT TO PERMIT RELIGIOUS INSTITUTIONS TO ALLOW THEIR PARKING LOTS TO BE USED BY THE PUBLIC WITHOUT REDUCING THEIR PROPERTY TAX EXEMPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.3, as it appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by adding a new subsection to be designated (g) and to read as follows:

"(g) Notwithstanding the exclusive-use requirement of subsection (a), above, any parking lot wholly owned by an agency listed in subsection (c), above, may be used for parking without removing the tax exemption granted in this section; provided, the total charge for said uses shall not exceed that portion of the actual maintenance expenditures for the parking lot reasonably estimated to have been made on account of said uses. This subsection shall apply beginning with the taxable year that commences on January 1, 1978."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1276 CHAPTER 868

AN ACT TO AMEND G.S. 58-40.2 TO INCLUDE INSURERS AND LICENSED AGENTS WITHIN COVERAGE OF INSURANCE BROKERS BOND.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 58-40.2 is hereby amended by rewriting this subsection to read as follows:

"(a) Every applicant for a resident broker's license or for the renewal thereof shall file with the application and shall thereafter maintain in force while so licensed a bond in favor of the State of North Carolina for the use of aggrieved parties, executed by an authorized corporate surety approved by the Commissioner, in the amount of five thousand dollars ($5,000). The bond may be continuous in form, and total aggregate liability on the bond may be limited to the payment of ten thousand dollars ($10,000). The bond shall be conditioned on the accounting by the broker (1) to any person requesting the broker to obtain insurance for moneys or premiums collected in connection therewith, (2) to any licensed insurer or agent who provides coverage for such person with respect to any such moneys or premiums, and (3) to any association of insurers under any plan or plans for the placement of insurance under the laws of North Carolina which afforded coverage for such person with respect to any such moneys or premiums."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1281 **CHAPTER 869**

AN ACT TO MAKE TECHNICAL AMENDMENTS TO EXISTING PROVISIONS OF G.S. 105-277(f) AND TO G.S. 160A-399.4-5 RELATING TO THE TAXATION AND DESIGNATION OF HISTORIC PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277(f), as it appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes, is repealed.

Sec. 2. A new G.S. 105-278 is enacted to read as follows:

"§ 105-278. *Historic properties.*—(a) Real property designated as a historic structure or site by a local ordinance adopted pursuant to G.S. 160A-399.4 is hereby designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified, upon annual application of the property owner, shall be taxed uniformly as a class in each local taxing unit on the basis of fifty percent (50%) of the true value of the property as determined pursuant to G.S. 105-285 and G.S. 105-286, or G.S. 105-287.

(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a) and shall be carried forward in the records of the taxing unit or units as deferred taxes, but shall not be payable until the property loses its eligibility for the benefit of this classification because of a change in an ordinance designating a historic property or a change in the property, except by fire or other natural disaster, which causes its historical significance to be lost or substantially impaired. The tax for the fiscal year that opens in the calendar year in which a disqualification occurs shall be computed as if the property had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred as provided herein shall be payable immediately, together with interest thereon as provided in G.S. 105-360 for unpaid taxes, which shall accrue on the deferred taxes as if they had been payable on the dates on which they originally became due. If only a part of the historic property loses its eligibility for the classification, a determination shall be made of the amount of deferred taxes applicable to that part, and the amount shall be payable with interest as provided above."

Sec. 3. The first sentence of the second paragraph of G.S. 160A-399.4, as it appears in the 1976 Replacement Volume 3D of the General Statutes, is amended to read as follows:

"The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, and/or archaeological value, including the approximate area of surrounding land, and any other information the governing board deems necessary within the authority of this Part."

Sec. 4. The first paragraph of G.S. 160A-399.5, as it appears in the 1976 Replacement Volume 3D of the General Statutes, is hereby amended as follows:

"Required procedures: The commission shall undertake an inventory of all properties of historical, architectural, and archaeological significance in its jurisdiction. This shall serve as a guide for the identification, assessment, and designation of historic properties. No ordinances designating a historic building,

structure, site, area or object nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a historic properties commission or the governing board of a city or county, until the following procedural steps have been taken."

Sec. 5. G.S. 160A-399.5(1), as it appears in the 1976 Replacement Volume 3D of the General Statutes, is hereby amended as follows:

"The historic properties commission shall make or cause to be made an investigation and report on the historic, architectural, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. In connection with such investigation the historic properties commission shall assess the significance of each property to be designated in relation to others in its jurisdiction. The report of the inventory and assessment shall be submitted to the Department of Cultural Resources for its review."

Sec. 6. G.S. 160A-399.5(2) as it appears in the 1975 Replacement Volume 3D of the General Statutes is amended to read as follows:

"The Department of Cultural Resources, or another agency or employee of the department designated by the secretary, shall make an analysis of recommendations concerning the report of a historic properties commission within 60 days after the report and written request for the analysis have been mailed to the department by the clerk of the city or county governing board, unless the applicant is required to submit additional information. This requirement of the department's analysis and recommendations is waived with respect to any building, structure, site, area or object of national, State or local historical and/or architectural significance that is currently listed (as certified by the Secretary of Cultural Resources) in the National Register of Historic Places established by the National Historic Preservation Act of 1966, Public Law 89-665, 15 U.S.C.A. Section 470a, as amended."

Sec. 7. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1426 CHAPTER 870

AN ACT TO PROVIDE THAT MONEY SHALL NOT BE INCLUDED WHEN COMPUTING THE BOND OF A PERSONAL REPRESENTATIVE OR TESTAMENTARY TRUSTEE IF IT IS DEPOSITED IN AN INSURED ACCOUNT AND IT MAY NOT BE WITHDRAWN WITHOUT A COURT ORDER.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of General Statutes Chapter 28A is amended by adding a new section to read as follows:

"§ 28A-8-1.1. *Deposited money; exclusion in computing amount of bond.*— Notwithstanding the provisions of G.S. 28A-8-1, in any proceeding for the determination of the amount of bond to be required of the personal representative or testamentary trustee, whether at the time of appointment or subsequently, when it appears that the estate of the decedent or the testamentary trust includes money which has been or will be deposited in a bank or banks in this State, or money which has been or will be invested in an account or accounts in an insured savings and loan association or associations

upon condition that such money will not be withdrawn except on authorization of the court, the court may, in its discretion, order such money so deposited or so invested and shall exclude such deposited money from the computation of the amount of such bond or reduce the amount of bond to be required in respect of such money to such an amount as it may deem reasonable.

The petitioner for letters testamentary, of administration, or of trusteeship may deliver to any such bank or association any such money in his possession, or may allow such bank to retain any such money already in its possession, or may allow such association to retain any such money already invested with it; and, in either event, the petitioner shall secure and file with the court a written receipt including the agreement of the bank or association that such money shall not be allowed to be withdrawn except on authorization of the court. In so receiving and retaining such money, the bank or association shall be protected to the same extent as though it had received the same from a person to whom letters testamentary, of administration, or of trusteeship had been issued.

The term 'account in an insured savings and loan association' as used in this section means an account insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or by a mutual deposit guaranty association authorized by Article 7A of Chapter 54 of the General Statutes of North Carolina.

The term 'money' as used in this section means the principal of the decedent's estate and does not include the income earned by the principal of the decedent's estate which may be withdrawn without any authorization of the court."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 318 CHAPTER 871

AN ACT PROVIDING FOR MANDATORY PRISON CONFINEMENT FOR PERSONS CONVICTED OF ARMED ROBBERY OR BURGLARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-87, as it appears in the 1975 Cumulative Supplement to Volume 1B, is amended by adding a new subsection (c) to read as follows:

"(c) Any person who has been convicted of a violation of G.S. 14-87(a) shall serve the first seven years of his sentence without benefit of parole, probation, suspended sentence, or any other judicial or administrative procedure except such time as may be allowed as a result of good behavior, whereby the period of actual incarceration of the person sentenced is reduced to a period of less than seven years. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentences being served by the person sentenced hereunder.

Notwithstanding any other provision of law, neither the Parole Commission nor any other agency having responsibility for release of inmates prior to expiration of sentences shall authorize the release of an inmate sentenced under this section prior to his having been incarcerated for seven years except such time as may be allowed as a result of good behavior."

Sec. 2. G.S. 14-52, as it appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is rewritten to read as follows:

"§ 14-52. *Punishment for burglary.*—(a) Any person convicted of burglary in the first degree shall be imprisoned for life in the State's prison. Any one convicted of the crime of burglary in the second degree shall be punished by imprisonment for not less than seven years nor more than life imprisonment in the State's prison.

(b) Any person who has been convicted of a violation of G.S. 14-52(a) shall serve the first seven years of his sentence without benefit of parole, probation, suspended sentence, or any other judicial or administrative procedure except such time as may be allowed as a result of good behavior, whereby the period of actual incarceration of the person sentenced is reduced to a period of less than seven years. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentences being served by the person sentenced hereunder.

Notwithstanding any other provision of law, neither the Parole Commission nor any other agency having responsibility for release of inmates prior to expiration of sentences shall authorize the release of an inmate sentenced under this section prior to his having been incarcerated for seven years, except such time as may be allowed for good behavior."

Sec. 3. Each business establishment in this State, to which has been issued a retail sales tax license, is authorized to display a cardboard placard not less than 8 inches by 11 inches which shall bear the following inscription in letters not less than three-fourths inch high:

"By Act of the North Carolina General Assembly Any Person Convicted of Armed Robbery Shall Serve a Sentence of No Less Than 7 Years of Imprisonment Without Probation or Parole."

Sec. 4. This act shall apply to all offenses committed on or after the effective date of this act.

Sec. 5. This act shall in no manner impair the powers of the Governor under the provisions of Article III, Section 6, of the North Carolina Constitution.

Sec. 6. G.S. 14-87(a), as it appears in the 1975 Cumulative Supplement to Volume 1B, is amended in the ninth line by substituting the word "seven" for the word "five".

Sec. 7. In the event of any conflict between the provisions of this act and the provisions of Article 3B of G.S. Chapter 148, the provisions of Article 3B shall control and remain in full force and effect.

Sec. 8. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 378

CHAPTER 872

AN ACT TO TRANSFER THE GOVERNOR'S COUNCIL ON EMPLOYMENT OF THE HANDICAPPED AND THE GOVERNOR'S ADVOCACY COUNCIL ON CHILDREN AND YOUTH FROM THE DEPARTMENT OF HUMAN RESOURCES TO THE DEPARTMENT OF ADMINISTRATION.

The General Assembly of North Carolina enacts:

Section 1. The Governor's Council on Employment of the Handicapped as created by Part 16 of Article 3 of Chapter 143B of the General Statutes, as the same is found in Volume 3C of the General Satutes, 1974 Replacement, is hereby transferred by a Type I transfer as defined in G.S. 143A-6, from the Department of Human Resources to the Department of Administration.

Sec. 2. Part 16 of Article 3 of Chapter 143B of the General Statutes, as the same is found in Volume 3C of the General Statutes, 1974 Replacement, is transferred and recodified in Article 9 of Chapter 143B of the General Statutes and said transferred Part is deleted and substituted in lieu thereof is the following:

"PART 14.

"Governor's Council on Employment of the Handicapped.

"§ 143B-401. *Governor's Council on Employment of the Handicapped; creation; powers and duties.*—There is hereby created the Governor's Council on the Employment of the Handicapped of the Department of Administration. The Governor's Council on the Employment of the Handicapped shall have the following functions and duties:

(1) to advise and assist the department on the continuing program to promote the employment of the physically, mentally, emotionally, and otherwise handicapped citizens of North Carolina by creating statewide interest in the rehabilitation and employment of the handicapped, and by obtaining and maintaining cooperation with all public and private groups and individuals in this field;

(2) to work in close cooperation with the President's Committee on the Employment of the Physically Handicapped to carry out more effectively the purpose of Article 29A of Chapter 143 of the General Statutes, and with State and federal agencies having responsibilities for employment and rehabilitation of the handicapped;

(3) to promote and encourage the holding of appropriate ceremonies throughout the State during the 'National Employ the Physically Handicapped Week' the purpose of which ceremony shall be to enlist public support for interest in the employment of the physically handicapped; and

(4) the Council shall advise the Secretary of Administration upon any matter the Secretary may refer to it.

"§ 143B-402. *Governor's Council on Employment of the Handicapped; members; selection; quorum; compensation.*—The Governor's Council on Employment of the Handicapped of the Department of Administration shall consist of 22 members appointed by the Governor. The composition of the Council shall be as follows: four members from State government agencies as follows: the Commissioner of Labor, the Commissioner of Insurance, the Chairman of the Employment Security Commission and the Secretary of the

Department of Human Resources or his designee; and 18 members to be appointed by the Governor.

The initial members of the council shall be the members of the former Governor's Council on Employment of Handicapped of the Department of Human Resources whose terms shall expire on the dates they would have had said council of Department of Human Resources not been transferred. At the end of the respective terms of office of the initial members of the council, the appointment of all members, with the exception of those from State agencies, shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor may remove any member of the Council appointed by the Governor.

The Governor shall designate one member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration."

Sec. 3. The Employment of the Handicapped Fund as created by G.S. 143-283.7, as the same is found in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, and all records, monies, appropriations, equipment and property connected therewith are transferred from the Department of Human Resources to the Department of Administration.

Sec. 4. G.S. 143-283.7 is amended on lines 4, 8, 18, 21, 22, 27 and 34 by deleting the words "Human Resources" and substituting in lieu thereof the word "Administration".

Sec. 5. The Governor's Advocacy Council on Children and Youth as created by Part 17 of Article 3 of Chapter 143B of the General Statutes, as the same is found in Volume 3C of the General Statutes, 1974 Replacement, is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, from the Department of Human Resources to the Department of Administration.

Sec. 6. Part 17 of Article 3 of Chapter 143B of the General Statutes, as the same is found in Volume 3C of the General Statutes, 1974 Replacement, is transferred and recodified in Article 9 of Chapter 143B of the General Statutes and said transferred Part is deleted and substituted in lieu thereof is the following:

"PART 15.

"Governor's Advocacy Council on Children and Youth.

"§ 143B-403. *Governor's Advocacy Council on Children and Youth; creation; powers and duties.*—There is hereby created the Governor's Advocacy Council on Children and Youth of the Department of Administration. The Council shall have the following functions and duties:

(1) to act as an advocate for children and youth within State and local governments, and with private agencies serving children and youth;

(2) to provide assistance in the development and coordination of child advocacy systems at the regional and local levels within the State;

(3) to perform a continuing review of existing programs of State government for children and youth and their families;

(4) to, in cooperation with State, local or private agencies, identify needs of children and youth and their families that are not currently being met and recommend new programs or improvement of existing programs;

(5) to review any new programs affecting children and youth proposed by any State agency and recommend changes to avoid duplication of services, to promote better planning, or otherwise to make more effective use of available resources;

(6) to meet at least annually with the Governor and present a written report concerning the health and well-being of North Carolina's children and the effectiveness of current programs and the need for new programs for children and youth;

(7) to provide information to the general public and State, local and private agencies serving children and youth and their families concerning the activities and findings of the Council; and

(8) to perform such other functions as may be assigned to it by the Secretary of Administration or any legislative committee.

"§ 143B-404. *Governor's Advocacy Council on Children and Youth; members; selection; quorum; compensation.*—The Governor's Advocacy Council on Children and Youth shall consist of 17 members. The composition of the Council shall be as follows: two members appointed by the President of the Senate from the membership of the Senate; two members selected by the Speaker of the House of Representatives from the membership of the House of Representatives; 13 members appointed by the Governor.

In selecting the 13 members of the Council, the Governor shall select nine public-spirited adult citizens who have an interest in and knowledge of children and youth, persons who work with children or representatives of organizations concerned with problems of children and youth. The remaining four members to be appointed by the Governor shall consist of two youths of each sex who are 18 years of age or under at the time of their appointments.

The initial members of the Council shall be the members of the former Governor's Advocacy Council on Children and Youth of the Department of Human Resources whose terms shall expire on the date they would have had said Council of the Department of Human Resources not been transferred. At the end of the respective terms of office of the initial members of the Council, the appointment of all members shall be as provided in this section and for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, death, dismissal, or disability of a member shall be for the balance of the unexpired term.

The Governor may remove any member of the Council appointed by the Governor.

The Governor shall designate from the membership of the Council a chairman and a vice-chairman to serve at his pleasure.

The Council shall meet at least quarterly and upon the call of the chairman or upon written request of at least nine members.

The members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration.

"§ 143B-405. *Access to information.*—Unless otherwise prohibited by law, every State and local agency, department, board, commission, school, or corporation that supervises, administers, or otherwise directs programs or services for children and youth shall provide the Council with any requested information relating to such programs and services."

Sec. 7. Article 6 of Chapter 110 of the General Statutes, as the same is found in Volume 3A of the General Statutes, 1975 Replacement, is hereby repealed.

Sec. 8. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriation to implement the provisions of this act.

Sec. 9. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 568 CHAPTER 873

AN ACT TO AMEND G.S. 7A-273 RELATING TO THE POWER OF MAGISTRATES IN CRIMINAL ACTIONS RELATING TO WORTHLESS CHECKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-273(6) is hereby rewritten to read as follows:

"(6) Notwithstanding the provisions of subdivision (1) of this section, to hear and enter judgment as the chief district judge shall direct in all worthless check cases brought under G.S. 14-107, when the amount of the check is four hundred dollars ($400.00) or less. Provided, however, that under this section magistrates may not impose a prison sentence longer than 30 days."

Sec. 2. This act shall become effective July 1, 1977, and shall be applicable to all criminal proceedings begun on and after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 585 CHAPTER 874

AN ACT TO CLARIFY THE TERM "INTERSTATE BUSINESS" IN G.S. 105-113.9.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.9 is hereby amended by adding a new paragraph to read as follows:

"'Interstate business' as used in this section shall mean:

(1) the sale of cigarettes to a nonresident where the cigarettes are delivered by the distributor to the business location of the nonresident purchaser in another state; and

(2) the sale of cigarettes to a nonresident wholesaler or retailer registered through the secretary who has no place of business in North Carolina and who purchases the cigarettes for the purposes of resale not within this State and

where the cigarettes are delivered to the purchaser at the business location in North Carolina of the distributor who is also licensed as a distributor under the laws of the state of the nonresident purchaser."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 603 CHAPTER 875

AN ACT TO AMEND G.S. 116-7(c) WITH REFERENCE TO THE FILLING OF VACANCIES ON THE BOARD OF GOVERNORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-7(c), as the same now appears in Replacement Volume 3A of the General Statutes, is hereby rewritten to read as follows:

"(c) Whenever any vacancy shall occur in the elected membership of the Board of Governors, it shall be the duty of the secretary of the board to inform the Chairman of the Board of Governors of the vacancy and the Chairman of the Board of Governors shall appoint a person to fill the vacancy. The person so appointed shall serve until a successor is elected at the next regular session of the General Assembly, which election shall be for the remainder of the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present for four successive regular meetings of the board, his place as a member shall be deemed vacant."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 716 CHAPTER 876

AN ACT TO PERMIT COUNTIES TO RECOVER INDIRECT COSTS ON HEALTH AND MENTAL HEALTH PROGRAMS TO THE FULL EXTENT PERMITTED BY LAW.

The General Assembly of North Carolina enacts:

Section 1. The Department of Human Resources shall include in its cost allocation plan applicable to public health or mental health grants from the federal government to the State or any of its agencies, prepared pursuant to Federal Management Circular 74-4 or any successor thereto, indirect costs incurred by counties acting as subgrantees under such grants or otherwise providing services to the department with regard to such grants to the full extent permitted by the Management Circular. The department shall allow such counties to claim and recover their indirect costs on such grants to the full extent permitted by the Management Circular.

Sec. 2. This act shall not apply to those federal public health or mental health grants which are formula grants to the State or which are otherwise limited as to the maximum amounts receivable on a statewide basis.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 728

CHAPTER 877

AN ACT TO AMEND THE SOLICITATION OF CHARITABLE FUNDS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-75.3(12) is amended on line 2 by adding the word "and" before the word "assessments" and by deleting the following: ", etc.,".

Sec. 2. G.S. 108-75.3(15) is amended on line 3 by deleting the word and punctuation "advises," and on line 6 by adding the following sentence after the word and punctuation "services.":

"Such counsel shall not include any person who only conducts a study to determine the feasibility of undertaking the solicitation of contributions."

Sec. 3. G.S. 108-75.4 is amended on line 2 of subsection (a) by adding the words "and conditional licenses" after the word "licenses" and is amended on line 4 of subsection (b) by substituting the word "Department" for the word "Commission".

Sec. 4. G.S. 108-75.4 is amended by adding a new subsection to read as follows:

"(c) Each conditional license shall be valid throughout the State for a period of one year or less from the date of issue and may be renewed for additional one-year periods or less upon submission to the department of evidence of substantial improvement towards compliance with all the provisions of this Part and the rules and regulations promulgated hereunder."

Sec. 5. G.S. 108-75.5(c) is amended on lines 14 and 15 by deleting the following sentence:

"The Committee shall also recommend to the Commission the forms for license application and other forms required by this Part." and is further amended on line 19 by deleting the word "forms".

Sec. 6. G.S. 108-75.6(a) is amended on line 5 by deleting the words "the Commission" and inserting in lieu thereof the word "it".

Sec. 7. G.S. 108-75.6(a)(6) is amended on lines 2 and 4 by deleting the word "certified" and is amended on lines 16 and 17 by substituting the words and figure "twenty-five thousand dollars ($25,000)" for the words and figure "fifteen thousand dollars ($15,000)".

Sec. 8. G.S. 108-75.6(d) is amended on line 2 by substituting the word "Department" for "Commission" and is amended on line 3 by deleting the word "certified".

Sec. 9. G.S. 108-75.6 is amended by deleting subsection (h).

Sec. 10. G.S. 108-75.7(a)(1) is amended on lines 1 and 6 by deleting the words "corporation sole or other".

Sec. 11. G.S. 108-75.7(a)(1) is amended on line 9 by replacing the colon with a comma and by adding the following:

"nor shall such religious corporation, trust or organization established for religious purposes be exempt from filing a license application if its financial support is derived primarily from contributions solicited from persons other than its own members, excluding sales of printed or recorded religious materials:".

Sec. 12. G.S. 108-75.7(a)(4)(b) is rewritten to read as follows:

"A final accounting of receipts and disbursements is published in a newspaper of general circulation in the area in which the greatest amounts of contributions were received."

Sec. 13. G.S. 108-75.7(b) is rewritten to read as follows:

"Any charitable organization which is exempt from the licensing requirements of this act shall lose such exemption when it employs a professional solicitor."

Sec. 14. G.S. 108-75.8(a) is amended on lines 5 and 6 by substituting the word "Department" for the word "Commission".

Sec. 15. G.S. 108-75.8(c) is amended on line 6 by adding the following after the word and punctuation "effect.":

"An individual, including the applicant and a member of the board of directors of the applicant, who is a resident of this State and holds five thousand dollars ($5,000) or more of equity in real property in this State, shall be a satisfactory surety."

Sec. 16. G.S. 108-75.9 is amended by deleting the last sentence.

Sec. 17. G.S. 108-75.10(b) is amended on lines 8 and 11 by substituting the words and figure "five percent (5%)" for the words and figure "fifteen percent (15%)".

Sec. 18. G.S. 108-75.11(a) is amended on lines 3 and 4 by substituting the words and figure "five percent (5%)" for the words and figure "fifteen percent (15%)".

Sec. 19. G.S. 108-75.13 is amended on line 6 by deleting the words and punctuation "after 10 days' written notice mailed to the charitable organization,".

Sec. 20. G.S. 108-75.14 is repealed.

Sec. 21. G.S. 108-75.18 is rewritten to read as follows:

"§ 108-75.18. *Denial, suspension or revocation of license.*—The secretary shall revoke, suspend or deny issuance of a license to a charitable organization, professional fund-raising counsel or professional solicitor at any time upon a finding that:

(1) One or more of the statements in the application are not true.

(2) The applicant is or has engaged in a fraudulent transaction or enterprise.

(3) A solicitation would be a fraud upon the public.

(4) An unreasonable percentage of the contributions solicited, or to be solicited, is not applied, or will not be applied to a charitable purpose.

(5) The contributions solicited, or to be solicited, are not applied, or will not be applied to the purpose or purposes as represented in the license application.

(6) Solicitation and fund-raising expenses (including not only payments to professional solicitors, but also payments to professional fund-raising counsel, and internal fund-raising and solicitation salaries and expenses) during the year immediately preceding the date of application have excceded, or for the specific year in which the application is submitted will exceed, thirty-five percent (35%) of the total moneys, pledges, or other property raised or received or to be raised or received by reason of any solicitation and/or fund-raising activities or campaigns. As used in this subdivision and in G.S. 108-75.23, the term 'internal fund-raising and solicitation salaries and expenses' shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as is fairly allocable (on a time or other appropriate basis) to its solicitation and/or fund-raising expense. In the event special facts or

circumstances are presented showing that expenses higher than thirty-five percent (35%) were not or will not be unreasonable, the secretary has the discretion to allow such higher expense.

(7) The applicant or licensee has failed to comply with any of the provisions of this Part, or with any rules and regulations adopted by the commission pursuant to this Part."

Sec. 22. G.S. 108-75.19(a) is amended in the next-to-last line by substituting the word "Secretary" for the words "chairman of the Commission".

Sec. 23. G.S. 108-75.19(b) is amended on lines 4 and 6 by substituting the word "Department" for the word "Commission".

Sec. 24. Subsections (c) and (d) of G.S. 108-75.19 are repealed.

Sec. 25. G.S. 108-75.20(e) is rewritten to read as follows:

"No person shall falsely denominate any membership fee or purchase price of tangible personal property or services sold, as a contribution or as a donation or in any other manner represent or falsely imply that the member or the purchaser of such tangible personal property or services will be entitled to an income tax deduction for his cost or any portion thereof."

Sec. 26. G.S. 108-75.22(a) is amended on lines 4 and 5 by deleting the words and punctuation "or otherwise violates the provisions of this Part or the rules and regulations of the Commission,"; is amended on line 6 by deleting the words "or violating"; is amended on line 10 by deleting the words "or if the existing violation is not discontinued"; and is amended by adding the following sentence to the end of the subsection:

"If any charitable organization, professional fund-raising counsel, or professional solicitor in any other way violates the provisions of this Part or the rules and regulations promulgated hereunder, the secretary may immediately deny issuance of a license or revoke or suspend the license, effective upon receipt of notice or return of notice undelivered, by mailing notice by registered or certified mail, with return receipt, to the last known address of the charitable organization, professional fund-raising counsel or professional solicitor."

Sec. 27. G.S. 108-75.22(e) is amended on lines 2, 3 and 4 by deleting the words "or the Commission (who shall have given due notice and full hearing to a charitable organization, professional fund-raising counsel or professional solicitor)".

Sec. 28. G.S. 108-75.24, as it appears in the 1975 Supplement to Volume 3A, is amended by adding the following sentence:

"Nothing in this section shall be deemed or construed to require that such ordinances or regulations be identical with the provisions of this Part, as amended, and the rules and regulations of the commission, provided that such ordinances or regulations are substantially as stringent as or require a higher standard of conduct than the provisions of this Part and the rules and regulations of the commission."

Sec. 29. G.S. 108-75.25 is rewritten to read as follows:

"This Part shall not apply to public-supported community foundations or public-supported community trusts as defined in the Internal Revenue Code of 1954, as amended, or regulations promulgated pursuant thereto."

Sec. 30. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 741

CHAPTER 878

AN ACT TO AMEND THE DAM SAFETY LAW OF 1967, G.S. 143-215.23 ET SEQ. TO REMOVE THE EXEMPTION OF DAMS COSTING LESS THAN FIVE THOUSAND DOLLARS AND MAKE CERTAIN TECHNICAL CORRECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.24, as the same now appears in the 1974 Replacement Volume 3C of the General Statutes, is amended by deleting the words "certain" on line 2 and "such" on line 3, and by inserting on line 5 the word "minimum" between the word "of" and the words "stream flows".

Sec. 2. G.S. 143-215.25(2)f., as the same now appears in 1974 Replacement Volume 3C of the General Statutes, is amended by deleting from lines 3 and 4 the phrase "or any dam costing less than five thousand dollars ($5,000)" and the period following this phrase, and by changing the comma following the word "acre-feet" on line 3 to a period.

Sec. 3. G.S. 143-215.32, as the same now appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by adding a new subsection (d) as follows:

"(d) for the purposes of this section the word 'dam' shall mean any dam posing a present threat to human life or property regardless of its size and impoundment capacity, but excepting those dams described in G.S. 143-215.25(2)a., b. and d."

Sec. 4. G.S. 143-215.25(4), as the same now appears in 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by deleting therefrom the words "the North Carolina Stream Sanitation Law" as they appear on line 5, and by substituting instead the citation to the statute "G.S. 143-214.1".

Sec. 5. G.S. 143-215.29(a), as the same now appears in 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting from line 2 the word "and"; by inserting a comma after the citation to G.S. 143-215.26; by inserting after the citation to G.S. 143-215.27 a comma and the words "and G.S. 143-215.28, and any project undertaken pursuant to an order of the commission issued pursuant to this section or G.S. 143-215.32."

Sec. 6. G.S. 143-215.33(b), as the same now appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting from line 6 the words "Article 33 of Chapter 143" and by inserting instead the words "Article 4 of Chapter 150A".

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 760

CHAPTER 879

AN ACT TO AMEND CHAPTERS 7A AND 48 OF THE GENERAL STATUTES RELATING TO ADOPTIONS AND TERMINATION OF PARENTAL RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-2 is hereby amended to include a definition of parent in new subdivision (6) to read as follows:

"(6) 'Parent' means the biological or legal mother or father of a child."

Sec. 2. G.S. 48-5 is amended as follows:

(1) By adding two new subsections and designating them, respectively, (a) and (b) as follows:

"(a) The court shall be authorized to determine whether the parent or parents of a child shall be necessary parties to any proceeding under this Chapter, and whether the consent of such parent or parents shall be required in accordance with G.S. 48-6 and G.S. 48-7.

(b) If the identity of either parent is unknown or if one parent is unwilling to identify the other parent, the determination of whether consent of such parent shall be necessary to the adoption of the child shall be made according to G.S. 48-7(c)."

(2) By redesignating the present subsections as (c), (d), (e), and (f), respectively.

(3) By substituting the reference to subsections (d) and (e) for the reference to subsections (b) and (c) on line 2 of present subsection (d).

Sec. 3. G.S. 48-6 is hereby amended by redesignating the present subsection (b) as subsection (c), and is further amended by rewriting the present catch line and subsection (a), and by adding a new subsection (b), so that the catch line and subsections (a) and (b) will read as follows:

"§ 48-6. *When consent of parents not necessary.*—(a) The court shall determine whether the parent or parents of a child must give written consent to adoption of said child in accordance with the following provisions:

(1) If a parent who has been served with notice pursuant to G.S. 48-7 fails to appear at the hearing by the date and time specified in the notice, and has not given a written consent to adoption, the clerk shall enter an order with supporting findings of fact allowing the adoption to proceed without the said parent's consent.

(2) If a putative father appears at the hearing and cannot establish a parental right in accordance with subsection (3) below as to why his consent should be necessary, the court shall enter an order with supporting findings of fact allowing the adoption to proceed without the said putative father's consent.

(3) In the case of a child born out of wedlock the consent of the putative father shall not be required unless prior to the filing of the adoption petition:

a. paternity has been judicially established or acknowledged by affidavit; or

b. the child has been legitimated either by marriage to the mother or in accordance with provisions of G.S. 49-10, a petition for legitimation has been filed; or

c. the putative father has provided substantial financial support or consistent care with respect to the child and mother.

(b) If a putative father of a child executes an affidavit denying paternity or executes a waiver of any and all rights to said child, including the right to notice of adoption, his consent shall not be required and he shall not be a necessary party to any proceeding under this Chapter, and the court shall enter an order to this effect."

Sec. 4. G.S. 48-6.1 is hereby repealed.

Sec. 5. G.S. 48-9(a)(1) is amended by deleting the last sentence in its entirety, substituting in lieu thereof the following:

"A county director of social services may accept the surrender of a child regardless of its place of birth or the residence of the parent or parents."

Sec. 6. G.S. 48-13 is amended by striking from line 9 the words "and become a part of the report provided for in G.S. 48-16", substituting therefor the words "the petition for adoption".

Sec. 7. G.S. 7A-288 is hereby repealed in its entirety.

Sec. 8. A new Article is added to Chapter 7A of the General Statutes to read as follows:

"ARTICLE 24B.

"Termination of Parental Rights.

"§ 7A-289.20. *Legislative intent; construction of Article.*—The General Assembly hereby declares as a matter of legislative policy with respect to termination of parental rights:

(1) The general purpose of this Article is to provide judicial procedures for terminating the legal relationship between a child and his or her biological or legal parents when such parents have demonstrated that they will not provide the degree of care which promotes the healthy and orderly physical and emotional well-being of the child.

(2) It is the further purpose of this Article to recognize the necessity for any child to have a permanent plan of care at the earliest possible age, while at the same time recognizing the need to protect all children from the unnecessary severance of a relationship with biological or legal parents.

(3) Action which is in the best interests of the child should be taken in all cases where the interests of the child and those of his or her parents or other persons are in conflict; and to that end this Article should be liberally construed.

"§ 7A-289.21. *Jurisdiction.*—The district court shall have exclusive original jurisdiction to hear and determine any petition relating to termination of parental rights to any child who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. A guardian *ad litem* shall be appointed to represent such minor parent, under the age of 14 years.

"§ 7A-289.22. *Who may petition.*—A petition to terminate the parental rights of either or both parents to his, her, or their minor child may only be filed by:

(1) either parent seeking termination of the right of the other parent; or

(2) any person who has been judicially appointed as the guardian of the person of the child; or

(3) any county department of social services or licensed child-placing agency to whom custody of the child has been given by a court of competent jurisdiction; or

(4) any county department of social services or licensed child-placing agency to which the child has been surrendered for adoption by one of the parents or by the guardian of the person of such child, pursuant to G.S. 48-9(a)(1); or

(5) any person with whom the child has resided for a continuous period of two years or more next preceding the filing of the petition.

"§ 7A-289.23. *Petition.*—The petition shall be verified by the petitioner and shall be entitled 'In re (last name of child), a minor child'; and shall set forth such of the following facts as are known; and with respect to the facts which are unknown the petitioner shall so state:

(1) The name of the child as it appears on the child's birth certificate, the date and place of birth, and the county where the child is presently residing.

(2) The name and address of the petitioner and facts sufficient to identify the petitioner as one entitled to petition under G.S. 7A-289.22.

(3) The name and address of the parents of the child. If the name or address of one or both parents is unknown to the petitioner, the petitioner shall set forth with particularity the petitioner's efforts to ascertain the identity or whereabouts of the parent or parents. Such information may be contained in an affidavit attached to the petition and incorporated therein by reference.

(4) The name and address of any person appointed as guardian of the person of the child pursuant to the provisions of Article I of Chapter 33 of the General Statutes, or of G.S. 7A-286(7).

(5) The name and address of any person or agency to whom custody of the child has been given by a court of this or any other state; and a copy of such custody order shall be attached to the petition.

(6) Facts which are sufficient to warrant a determination that one or more of the grounds for terminating parental rights exist.

"§ 7A-289.24. *Preliminary hearing; unknown parent.*—(a) If either the name or identity of any parent whose parental rights the petitioner seeks to terminate is not known to the petitioner, the court shall within 10 days from the date of filing of the petition, or during the next term of court in the county where the petition is filed if there is no court in said county in that 10-day period, conduct a preliminary hearing to ascertain the name or identity of such parent.

(b) The court may, in its discretion, inquire of any known parent of the child concerning the identity of the unknown parent and may appoint a guardian *ad litem* for the unknown parent to conduct a diligent search for the parent. Should the court ascertain the name or identity of the parent, it shall enter a finding to that effect; and such parent shall be summoned to appear in accordance with G.S. 7A-289.25.

(c) Notice of the preliminary hearing need be given only to the petitioner who shall appear at the hearing; but the court may cause summons to be issued to any person directing him to appear and testify.

(d) If the court is unable to ascertain the name or identity of the unknown parent, the court shall order publication of notice of the termination proceeding and shall specifically order the place or places of publication and the contents of the notice which the court concludes is most likely to identify the child to such unknown parent. The notice shall be published in a newspaper qualified for

legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and published in the counties directed by the court, once a week for three successive weeks. Provided, further, the notice shall:

(1) designate the court in which the petition is pending;

(2) be directed to 'the father (mother) (father and mother) of a male (female) child born on or about (date) in _____ County, _____ (City) _____ (State), respondent';

(3) designate the docket number and title of the case (the court may direct the actual name of the title be eliminated and the words 'In Re Doe' substituted therefor);

(4) state that a petition seeking to terminate the parental rights of the respondent has been filed;

(5) direct the respondent to answer the petition within 30 days after a date stated in the notice, exclusive of such date, which date so stated shall be the date of first publication of notice, and be substantially in the form as set forth in G.S. 1A-1, Rule 4(j)(9)(c); and

(6) state that the respondent's parental rights to the child will be terminated upon failure to answer the petition within the time prescribed.

Upon completion of the service, an affidavit of the publisher shall be filed with the court.

(e) The court shall issue the order required by G.S. 7A-289.24(b) and (d) within 30 days from the date of the preliminary hearing unless the court shall determine that additional time for investigation is required.

(f) Upon the failure of the parent served by publication pursuant to G.S. 7A-289.24(d) to answer the petition within the time prescribed, the court shall issue an order terminating all parental rights of the unknown parent.

"§ 7A-289.25. *Issuance of summons.*—Except as provided in G.S. 7A-289.24, upon the filing of the petition, the court shall cause a summons to be issued, directed to the following persons or agency, not otherwise a party petitioner, who shall be named as respondents:

(1) the parents of the child;

(2) any person who has been judicially appointed as guardian of the person of the child;

(3) the custodian of the child appointed by a court of competent jurisdiction;

(4) any county department of social services or licensed child-placing agency to whom a child has been released by one parent pursuant to G.S. 48-9(a)(1); and

(5) the child, if he or she is 12 years of age or older at the time the petition is filed.

Provided, no summons need be directed to or served upon any parent who has previously surrendered the child to a county department of social services or licensed child-placing agency, nor to any parent who has consented to the adoption of the child by the petitioner. The summons shall notify the respondents to file written answer within 30 days after service of the summons and petition and that if the respondents fail to answer, the petitioner will apply to the court for the relief prayed for in the petition. Service of the summons shall be completed as provided under the procedures established by G.S. 1A-1, Rule 4(j); but the parent of the child shall not be deemed to be under disability even though such parent is a minor.

"§ 7A-289.26. *Failure of respondents to answer.*—Upon the failure of the respondents to file written answer to the petition with the court within 30 days after service of the summons and petition, or within 30 days from the date of first publication if service is by publication, the court shall issue an order terminating all parental and custodial rights of the respondent or respondents with respect to the child; provided the court shall order a hearing on the petition and may examine the petitioner or others on the facts alleged in the petition.

"§ 7A-289.27. *Answer of respondents.*—(a) Any respondent may file a written answer to the petition. The answer shall admit or deny the allegations of the petition and shall set forth the name and address of the answering respondent or his or her attorney.

(b) If an answer denies any material allegation of the petition, the court shall appoint a licensed attorney as guardian *ad litem* for the child to represent the best interests of the child. The court shall conduct a special hearing after notice of not less than 10 days nor more than 30 days to the petitioner, the answering respondent(s), and the guardian *ad litem* for the child, to determine the issues raised by the petition and answer(s). Notice of the hearing shall be deemed to have been given upon the depositing thereof in the United States Mail, first-class postage prepaid, and addressed to the petitioner, respondent, and guardian *ad litem* or their counsel of record, at the addresses appearing in the petition and responsive pleading.

"§ 7A-289.28. *Adjudicatory hearing on termination.*—(a) The hearing on the termination of parental rights shall be conducted by the district court sitting without a jury. Reporting of the hearing shall be as provided by G.S. 7A-198 for reporting civil trials.

(b) The court may, upon finding that reasonable cause exists, order the child to be examined by a psychiatrist, a licensed clinical psychologist, a physician, a public or private agency, or any other expert in order that the child's psychological or physical condition or needs may be ascertained or, in the case of a parent whose ability to care for the child is at issue, the court may order a similar examination of any parent of the child.

(c) The court may for good cause shown continue the hearing for such time as is required for receiving additional evidence, any reports or assessments which the court has requested, or any other information needed in the best interest of the child.

(d) The court shall take evidence, find the facts, and shall adjudicate the existence or nonexistence of any of the circumstances set forth in G.S. 7A-289.30 which authorize the termination of parental rights of the respondent.

(e) All findings of fact shall be based upon a preponderance of the evidence. No husband-wife or physician-patient privilege shall be grounds for excluding any evidence regarding the existence or nonexistence of any circumstance authorizing the termination of parental rights.

"§ 7A-289.29. *Disposition.*—(a) Should the court determine that any one or more of the conditions authorizing a termination of the parental rights of a parent exist, the court shall issue an order terminating the parental rights of such parent with respect to the child unless the court shall further determine that the best interests of the child require that the parental rights of such parent not be terminated.

(b) Should the court conclude that irrespective of the existence of one or more circumstances authorizing termination of parental rights, the best interests of the child require that such rights should not be terminated, the court shall dismiss the petition, but only after setting forth the facts and conclusions upon which such dismissal is based.

(c) Should the court determine that circumstances authorizing termination of parental rights do not exist, the court shall dismiss the petition, making appropriate findings of fact and conclusions.

(d) The court may tax the cost of the proceeding to any party.

"§ 7A-289.30. *Grounds for terminating parental rights.*—The court may terminate the parental rights upon a finding of one or more of the following:

(1) The parent has without cause failed to establish or maintain concern or responsibility as to the child's welfare.

(2) The parent has physically abused or neglected the child. The child shall be deemed to be physically abused or neglected if the court finds the child to be an abused child within the meaning of G.S. 110-117(1)(a), (b), or (c), or a neglected child within the meaning of G.S. 7A-278(4).

(3) The parent has willfully left the child in foster care for more than two consecutive years without showing to the satisfaction of the court that substantial progress has been made within two years in correcting those conditions which led to the removal of the child for neglect, or without showing positive response within two years to the diligent efforts of a county department of social services, a child-caring institution or licensed child-placing agency to encourage the parent to strengthen the parental relationship to the child or to make and follow through with constructive planning for the future of the child.

(4) The child has been placed in the custody of a county department of social services, a licensed child-placing agency, or a child-caring institution, and the parent, for a continuous period of six months next preceding the filing of the petition, has failed to pay a reasonable portion of the cost of care for the child.

(5) One parent has been awarded custody of the child by judicial decree, or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition willfully failed without justification to pay for the care, support, and education of the child, as required by said decree or custody agreement.

(6) The father of a child born out of wedlock has not prior to the filing of a petition to terminate his parental rights:

a. established paternity judicially or by affidavit; or
b. legitimated the child pursuant to provisions of G.S. 49-10, or filed a petition for this specific purpose; or
c. legitimated the child by marriage to the mother of the child; or
d. provided substantial financial support or consistent care with respect to the child and mother.

"§ 7A-289.31. *Effects of termination order.*—An order terminating the parental rights completely and permanently terminates all rights and obligations of the parent to the child and of the child to the parent, arising from the parental relationship, except that the child's right of inheritance from his or her parent shall not terminate until such time as a final order of adoption is

issued. Such parent is not thereafter entitled to notice of proceedings to adopt the child and may not object thereto or otherwise participate therein.

(1) If the child had been placed in the custody of or released for adoption by one parent to, a county department of social services or licensed child-placing agency and is in the custody of such agency at the time of such filing of the petition, that agency shall, upon entry of the order terminating parental rights, acquire all of the rights for placement of said child as such agency would have acquired had the parent whose rights are terminated released the child to that agency pursuant to the provisions of G.S. 48-9(a)(1), including the right to consent to the adoption of such child.

(2) Except as provided in subdivision (1) above, upon entering an order terminating the parental rights of one or both parents, the court may place the child in the custody of the petitioner, or some other suitable person, or in the custody of the department of social services or licensed child-placing agency, as may appear to be in the best interest of the child.

"§ 7A-289.32. *Appeals; modification of order after affirmation.*—Any child, parent, guardian, custodian or agency who is a party to a proceeding under this Article may appeal from an adjudication or any order of disposition to the Court of Appeals, provided that notice of appeal is given in open court at the time of the hearing or in writing within 10 days after the hearing. Pending disposition of an appeal, the court may enter such temporary order affecting the custody or placement of the child as the court finds to be in the best interest of the child or the best interest of the State. Upon the affirmation of the order of adjudication or disposition of the district court in a juvenile case by the Court of Appeals, or by the Supreme Court in the event of such an appeal, the district court shall have authority to modify or alter its original order of adjudication or disposition as the court finds to be in the best interest of the child to reflect any adjustment made by the child or change in circumstances during the period of time the case on appeal was pending, provided that if such modifying order be entered *ex parte*, the court shall give notice to interested parties to show cause, if any there be, within 10 days thereafter, as to why said modifying order should be vacated or altered."

Sec. 9. This act shall become effective October 1, 1977, but shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 799 **CHAPTER 880**

AN ACT TO AMEND CHAPTER 433 OF THE 1977 SESSION LAWS WHICH ALLOWS CERTAIN COUNTIES TO INCREASE THEIR LICENSE TAX LEVY ON MOTOR VEHICLES BY DELETING TRANSYLVANIA COUNTY THEREFROM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) as the same is rewritten in Section 1 of Chapter 433 of the 1977 Session Laws is amended on lines 11 and 15 by deleting the word "Transylvania".

Sec. 2. Section 2 of Chapter 433 of the 1977 Session Laws is amended on line 4 by deleting the word "Transylvania".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 811 CHAPTER 881

AN ACT TO CHANGE THE MEMBERSHIP OF THE COUNCIL ON DEVELOPMENTAL DISABILITIES SO AS TO CONFORM TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-178 is amended by repealing and rewriting subsection (1) to read as follows:

"(1) The term 'developmental disability' means a disability of a person which

(A)

(i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

(iii)is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

(B) originates before such person attains age 18;

(C) has continued or can be expected to continue indefinitely;

(D) constitutes a substantial handicap to such person's ability to function normally in society."

Sec. 2. G.S. 143B-178(2) is amended by inserting the words "habilitation or" after the word "economic" and in front of the word "rehabilitation" in line 5.

Sec. 3. G.S. 143B-179 is amended by amending the number "30" to read "36" on line 2, and by repealing and rewriting subsections (1) through (3) to read as follows:

"(1) Fifteen members from the General Assembly and State government agencies as follows: two persons who are members of the Senate, two persons who are members of the House of Representatives, one representative of the Department of Human Resources, one representative of the Department of Public Instruction, one representative of the Department of Correction, and eight representatives of the Department of Human Resources to include representatives from the State health planning and development agency, health services, mental health services, vocational rehabilitation services, division of aging, services for the blind, social services, and youth services.

(2) Twelve members designated as consumers of services for the developmentally disabled. As used in this section, the term 'consumer' means persons with developmental disabilities, or their parents or guardians, who are not officers of any entity, or employees of any State agency or of any other entity, which receives federal funds under Part A Title I, P.L. 90-170 as amended by P.L. 91-517 and P.L. 94-103, entitled 'Mental Retardation Facilities and Community Health Centers Construction Act of 1963'.

(3) Nine members at large, who by their interests and efforts have helped provide or may help provide improved services for those who are

developmentally disabled. Of the nine at-large members, at least one shall represent each of the following organizations: North Carolina Association of Retarded Citizens, North Carolina United Cerebral Palsy, Epilepsy Association of North Carolina, and North Carolina Society for Autistic Children."

Sec. 4. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 817 CHAPTER 882

AN ACT TO AMEND G.S. 160A-360 TO PROVIDE FOR USE OF CURRENT POPULATION OF MUNICIPALITIES IN DETERMINING PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-360(a) is amended by adding at the end a new sentence reading as follows:

"In determining the population of a city for the purposes of this Article, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 850 CHAPTER 883

AN ACT TO AMEND CHAPTER 44A OF THE GENERAL STATUTES TO REQUIRE A NOTICE OF LIS PENDENS BE FILED IN EACH COUNTY IN WHICH THE LIEN IS FILED, EXCEPT THE COUNTY IN WHICH THE ACTION ENFORCING THE LIEN IS COMMENCED, WITHIN 180 DAYS AFTER THE LAST FURNISHING OF LABOR OR MATERIALS AT THE SITE OF THE IMPROVEMENT BY THE PERSON CLAIMING THE LIEN IN ORDER TO BE ENTITLED TO THE PRIORITIES UNDER THE PROVISIONS OF G.S. 44A-14(a).

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-13 is hereby amended by adding a new subsection (c) to read as follows:

"(c) Notice of action. Unless the action enforcing the lien created by this Article is instituted in the county in which the lien is filed, in order for the sale under the provisions of G.S. 44A-14(a) to pass all title and interest of the owner to the purchaser good against all claims or interests recorded, filed or arising after the first furnishing of labor or materials at the site of the improvement by the person claiming the lien, a notice of lis pendens shall be filed in each county in which the real property subject to the lien is located within 180 days after the last furnishing of labor or materials at the site of the improvement by the person claiming the lien. It shall not be necessary to file a notice of lis pendens in the county in which the action enforcing the lien is commenced in order for

the judgment entered therein and the sale declared thereby to carry with it the priorities set forth in G.S. 44A-14(a). If neither an action nor a notice of lis pendens is filed in each county in which the real property subject to the lien is located within 180 days after the last furnishing of labor or materials at the site of the improvement by the person claiming the lien, as to real property claimed to be subject to the lien in such counties where the action was neither commenced nor a notice of lis pendens filed, the judgment entered in the action enforcing the lien shall not direct a sale of the real property subject to the lien enforced thereby nor be entitled to any priority under the provisions of G.S. 44A-14(a), but shall be entitled only to those priorities accorded by law to money judgments."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 863 **CHAPTER 884**

AN ACT TO PREVENT FRAUDULENT AND DECEPTIVE PRACTICES IN THE SALE OF BUSINESS OPPORTUNITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is hereby amended by adding a new Article as follows:

"ARTICLE 19.

"Business Opportunity Sales.

"§ 66-89. *Definition.*—For purposes of this Article, 'business opportunity' means the sale or lease of any products, equipment, supplies or services which are sold to the purchaser for the purpose of enabling the purchaser to start a business, and in which the seller represents:

(1) that the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases or other similar devices, or currency-operated amusement machines or devices, on premises owned nor leased by the purchaser or seller; or

(2) that it will purchase any or all products made, produced, fabricated, grown, bred or modified by the purchaser using in whole or in part, the supplies, services or chattels sold to the purchaser; or

(3) the seller guarantees that the purchaser will derive income from the business opportunity which exceeds the price paid for the business opportunity; or that the seller will refund all or part of the price paid for the business opportunity, or repurchase any of the products, equipment, supplies or chattels supplied by the seller, if the purchaser is unsatisfied with the business opportunity; or

(4) that upon payment by the purchaser of a fee or sum of money which exceeds fifty dollars ($50.00) to the seller, the seller will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity which exceeds the price paid for the business opportunity, provided that this subsection shall not apply to the sale of a marketing program made in conjunction with the licensing of a registered trademark or service mark.

Provided, that 'business opportunity' does not include the sale of an ongoing business when the owner of that business sells and intends to sell only that one

business opportunity; nor does it include the not-for-profit sale of sales demonstration equipment, materials, or samples, for a total price of one hundred dollars ($100.00) or less.

"§ 66-90. *Required disclosure statement.*—At least 48 hours prior to the time the purchaser signs a business opportunity contract, or at least 48 hours prior to the receipt of any consideration by the seller, whichever occurs first, the seller must provide the prospective purchaser a written document, the cover sheet of which is entitled in at least 10-point bold face capital letters 'DISCLOSURES REQUIRED BY NORTH CAROLINA LAW'. Under this title shall appear the statement in at least 10-point type that 'The State of North Carolina has not reviewed and does not approve, recommend, endorse or sponsor any business opportunity. The information contained in this disclosure has not been verified by the State. If you have any questions about this investment, see an attorney before you sign a contract or agreement.' Nothing except the title and required statement shall appear on the cover sheet. The disclosure document shall contain the following information:

(a) The name of the seller, whether the seller is doing business as an individual, partnership, or corporation, the names under which the seller has done, is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with purchasers or who takes responsibility for statements made by the seller.

(b) The names, addresses and titles of the seller's officers, directors, trustees, general partners, general managers, principal executives, and any other persons charged with responsibility for the seller's business activities relating to the sale of business opportunities.

(c) The length of time the seller has:

(1) sold business opportunities;

(2) sold business opportunities involving the product(s), equipment, supplies or services currently being offered to the purchaser.

(d) A full and detailed description of the actual services that the business opportunity seller undertakes to perform for the purchaser.

(e) A copy of a current (not older than 13 months) financial statement of the seller, updated to reflect any material changes in the seller's financial condition.

(f) If training of any type is promised by the seller, the disclosure statement must set forth a complete description of the training and the length of the training.

(g) If the seller promises services to be performed in connection with the placement of the equipment, product(s) or supplies at various location(s), the disclosure statement must set forth the full nature of those services as well as the nature of the agreements to be made with the owners or managers of these location(s) where the purchaser's equipment, product(s) or supplies will be placed.

(h) If the business opportunity seller is required to secure a bond or establish a trust deposit pursuant to Section 66-91, the document shall state either:

(1) 'As required by North Carolina law, the seller has secured a bond issued by

_____ a surety

(name and address of surety company)

company authorized to do business in this State. Before signing a contract to purchase this business opportunity, you should check with the surety company to determine the bond's current status,' or

(2) 'As required by North Carolina law, the seller has established a trust account _____ (number of account) with _____. (Name and address of bank or savings institution)

Before signing a contract to purchase this business opportunity, you should check with the bank or savings institution to determine the current status of the trust account.'

(i) The following statement:

'If the seller fails to deliver the product(s), equipment or supplies necessary to begin substantial operation of the business within 45 days of the delivery date stated in your contract, you may notify the seller in writing and demand that the contract be cancelled.'

(j) If the seller makes any statement concerning sales or earnings, or range of sales or earnings that may be made through this business opportunity, the document must disclose:

(1) The total number of purchasers of business opportunities involving the product(s), equipment, supplies or services being offered who to the seller's knowledge have actually received earnings in the amount or range specified, within three years prior to the date of the disclosure statement.

(2) The total number of purchasers of business opportunities involving the product(s), equipment, supplies or services being offered within three years prior to the date of the disclosure statement.

"§ 66-91. *Bond or trust account required.*—If the business opportunity seller makes any of the representations set forth in G.S. 66-89(3), the seller must either have obtained a surety bond issued by a surety company authorized to do business in this State or have established a trust account with a licensed and insured bank or savings institution located in the State of North Carolina. The amount of the bond or trust account shall be an amount not less than fifty thousand dollars ($50,000). The bond or trust account shall be in favor of the State of North Carolina. Any person who is damaged by any violation of this Article, or by the seller's breach of the contract for the business opportunity sale or of any obligation arising therefrom may bring an action against the bond or trust account to recover damages suffered; provided, however, that the aggregate liability of the surety or trustee shall be only for actual damages and in no event shall exceed the amount of the bond or trust account.

"§ 66-92. *Filing with Secretary of State.*—(a) The seller of every business opportunity shall file with the Secretary of State a copy of the disclosure statement required by G.S. 66-90 prior to placing any advertisement or making any other representations to prospective purchasers in this State, and shall update this filing as any material change in the required information occurs, but no less than annually. If the seller is required by G.S. 66-91 to provide a bond or establish a trust account, he shall contemporaneously file with the Secretary of State a copy of the bond or a copy of the formal notification by the depository that the trust account is established.

(b) Failure to so file shall be a misdemeanor.

"§ 66-93. *Prohibited acts.*—Business opportunity sellers shall not:

(a) represent that the business opportunity provides income or earning potential of any kind unless the seller has documented data to substantiate the claims of income or earning potential and discloses this data to the prospective purchaser at the time such representations are made;

(b) use the trademark, service mark, trade names, logotype, advertising or other commercial symbol of any business which does not either control the ownership interest in the seller or accept responsibility for all representations made by the seller in regard to the business opportunity, unless it is clear from the circumstances that the owner of the commercial symbol is not involved in the sale of the business opportunity;

(c) make or authorize the making of any reference to its compliance with this Article in any advertisement or other contact with prospective purchasers.

"§ 66-94. *Contracts to be in writing; form; provisions.*—(a) Every business opportunity contract shall be in writing and a copy shall be given to the purchaser at the time he signs the contract.

(b) Every contract for a business opportunity shall include the following:

(1) the terms and conditions of payment;

(2) a full and detailed description of the acts or services that the business opportunity seller undertakes to perform for the purchaser;

(3) the seller's principal business address and the name and address of its agent in the State of North Carolina authorized to receive service of process;

(4) the approximate delivery date of any product(s), equipment or supplies the business opportunity seller is to deliver to the purchaser.

"§ 66-95. *Remedies.*—(a) If a business opportunity seller uses any untrue or misleading statements in the sale of a business opportunity, or fails to give the proper disclosures in the manner required by G.S. 66-90, or fails to deliver the equipment, supplies or product(s) necessary to begin substantial operation of the business within 45 days of the delivery date stated in the business opportunity contract, or if the contract does not comply with the requirements of G.S. 66-94, then, within one year of the date of the contract, upon written notice to seller, the purchaser may void the contract and shall be entitled to receive from the business opportunity seller all sums paid to the business opportunity seller. Upon receipt of such sums, the purchaser shall make available to the seller at purchaser's address or at the places at which they are located at the time notice is given, all product(s), equipment or supplies received by the purchaser. Provided, that purchaser shall not be entitled to unjust enrichment by exercising the remedies provided in this subsection.

(b) Any purchaser injured by a violation of this Article or by the business opportunity seller's breach of a contract subject to this Article or any obligation arising therefrom may bring an action for recovery of damages, including reasonable attorneys' fees.

(c) Upon complaint of any person that a business opportunity seller has violated the provisions of this Article, the superior court shall have jurisdiction to enjoin the defendant from further such violations.

(d) The remedies provided herein shall be in addition to any other remedies provided for by law or in equity.

(e) The violation of any provision of this Article shall constitute an unfair practice under G.S. 75-1.1."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 911 CHAPTER 885

AN ACT TO AMEND THE WORTHLESS CHECKS STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-107 is amended by adding a new subparagraph immediately following subparagraph (2) to read as follows:

"(3) If such check or draft is drawn upon a non-existent account, the punishment shall be by a fine not to exceed one thousand dollars ($1,000) or imprisonment for not more than two years, or both.

(4) If such check or draft is drawn upon an account that has been closed by the drawer prior to time the check is drawn, the punishment shall be a fine not to exceed four hundred dollars ($400.00) or imprisonment for not more than five months or both."

Sec. 2. This act shall become effective August 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 335 CHAPTER 886

AN ACT TO REPEAL THE THREE YEAR STATUTE OF LIMITATIONS ON SUITS TO RECOVER REAL PROPERTY SOLD FOR NONPAYMENT OF TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-52(10), as it appears in the 1975 Cumulative Supplement to Volume 1A, is repealed.

Sec. 2. G.S. 105-377, as it appears in the 1972 Replacement of Volume 2D, is rewritten to read as follows:

"§ 105-377. *Time for contesting validity of tax foreclosure title.*— Notwithstanding any other provisions of law prescribing the period for commencing an action, no action or proceeding shall be brought to contest the validity of any title to real property acquired by a taxing unit or by a private purchaser in any tax foreclosure action or proceeding authorized by this Subchapter or by other laws of this State in force at the time the title was acquired, nor shall any motion to reopen or set aside the judgment in any such tax foreclosure action or proceeding be entertained after one year from the date on which the deed is recorded."

Sec. 3. G.S. 1-54 is amended by adding a new subsection to read as follows:

"(8) As provided in G.S. 105-377, to contest the validity of title to real property acquired in any tax foreclosure action or to reopen or set aside the judgment in any tax foreclosure action."

Sec. 4. This act shall not affect pending litigation.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 423 **CHAPTER 887**

AN ACT TO REWRITE G.S. 14-399 RELATING TO THE CRIME OF LITTERING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-399 is rewritten to read as follows:

"§ 14-399. *Littering.*—(a) No person, firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

(1) When such property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose; or

(2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters.

(b) When litter is so blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed such offense.

(c) As used in this section, the word 'litter' shall be defined as any rubbish, waste material, cans, refuse, garbage, trash, debris, dead animals or discarded materials of every kind and description; the word 'vehicle' shall be defined as in G.S. 20-4.01(49); and the word 'watercraft' shall be defined as any boat or vessel used for transport upon or across the water.

(d) A violation of this section is a misdemeanor punishable by a fine of not more than two hundred dollars ($200.00)."

Sec. 2. G.S. 14-134.1 is repealed.

Sec. 3. G.S. 20-188 is amended by adding the following at the end of the first paragraph:

"The State Highway Patrol shall enforce the provisions of G.S. 14-399."

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 437 **CHAPTER 888**

AN ACT TO EXTEND THE PROVISIONS OF CHAPTER 360 OF THE 1975 SESSION LAWS RELATING TO SPECIAL PROBATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 360 of the 1975 Session Laws, enacting G.S. 15-197.1 pertaining to special probation, is amended by deleting the phrase "This act shall become effective July 1, 1975, and shall expire on July 1, 1977." and inserting in lieu thereof "This act shall become effective July 1, 1975." The intent of this amendment is to continue G.S. 15-197.1 in effect on and after July 1, 1977.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 482 CHAPTER 889

AN ACT TO PROVIDE BENEFITS TO UNIFORMED WEIGH STATION PERSONNEL NOW AVAILABLE TO STATE HIGHWAY PATROLMEN AND TO INSPECTORS OF THE LICENSE AND THEFT SECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-185(f) as same appears in the 1975 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes is hereby amended by inserting immediately after the word "inspectors" and immediately before the word "in" appearing in line 5 thereof the words "and uniformed weigh station personnel".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 571 CHAPTER 890

AN ACT TO AMEND G.S. 105-147 OF THE GENERAL STATUTES RELATING TO CONTRIBUTIONS TO THE CIVIL AIR PATROL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(15) as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is hereby amended at line 22 by inserting the word "and" after the word and punctuation "squads," and before the word "volunteer"; and further amended at line 23 by deleting after the word "departments" and before the word and punctuation ", if" the words "and the Civil Air Patrol".

Sec. 2. G.S. 105-147(16) as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is hereby amended at line 7 by inserting after the word "hospitals" and before the word "located" the words "or the Civil Air Patrol".

Sec. 3. This act shall become effective January 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 653 CHAPTER 891

AN ACT TO AMEND THE CONTROLLED SUBSTANCES ACT TO SCHEDULE CONTROLLED SUBSTANCES PREVIOUSLY SCHEDULED BY REGULATION AND TO MAKE TECHNICAL CORRECTIONS IN THE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-89 is hereby amended as follows:

(1) by deleting from subsection (a) the substance "Dextrorphan" renumbering the remaining substances as 13 through 43;

(2) by adding a new subdivision (19) to subsection (c) to read

"(19) Thiophene Analog of Phencyclidine.";

(3) by adding a new subsection (d) to read as follows:

"(d) Any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:

(1) Mecloqualone."; and

(4) by inserting in subsection (c) the following definition for the substance peyote:

"11. Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seed or extracts."

Sec. 2. G.S. 90-90 is hereby amended as follows:

(1) by deleting from (a)1. the substance apomorphine, renumbering the remaining substances as (vii) through (xvi);

(2) by rewriting lines 5 through 7 of subsection (a) to read as follows:

"1. Opium and opiate, and any salt, compound, derivative, or preparation of opium and opiate, excluding apomorphine, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:".

Sec. 3. G.S. 90-92 is hereby amended as follows:

(1) by rewriting lines 1 through 3 of subsection (a) to read as follows:

"(a) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:";

(2) by adding the following at the end of subsection (a):

"19. Prazepam.";

(3) by adding a new subsection (e) to read as follows:

"(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Dextropropoxyphene (Alpha-(plus)-4-dimethyiamino-1,2-diphenyl-3-methyl-2-propionoxybutane)."

Sec. 4. G.S. 90-101 is hereby amended as follows:

(1) by deleting from line 3 of subsection (a) the word "dangerous";

(2) by deleting subdivision (4) of subsection (c);

(3) by adding a new subsection (g) to read as follows:

"(g) Practitioners licensed in North Carolina by their respective licensing boards may possess, dispense or administer controlled substances to the extent authorized by law and by their boards."

Sec. 5. G.S. 90-113.2 is hereby amended on lines 2, 3, 6 and 7 by deleting the words "or the North Carolina Commission for Health Services".

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 728 **CHAPTER 892**

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING COMPENSATION FOR DISFIGUREMENT AND LOSS OF IMPORTANT ORGANS OR PARTS OF THE BODY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-31 is hereby amended by striking out "seven thousand five hundred dollars ($7,500)" as the same appears in line 3 of subsection 21, as the same appears in lines 6 and 7 of subsection 22 and as the same appears in line 5 of subsection 24, and by substituting in lieu thereof "ten thousand dollars ($10,000)".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective July 1, 1977 and shall apply to injuries occurring on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 740 **CHAPTER 893**

AN ACT TO REDUCE THE MAXIMUM WORKMEN'S COMPENSATION PAYABLE FOR THE DEATH OF A MINOR WITHOUT DEPENDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(5), as it appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes of North Carolina, is hereby amended by inserting in paragraph 4, line 2 after the word "dies", the words "leaving dependents surviving" and by inserting after the word disability on line 8, the words "or for the death of a minor without dependents".

Sec. 2. This act shall become effective upon ratification and shall apply to all accidents which occur on or after July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 746 **CHAPTER 894**

AN ACT TO ELIMINATE DISCRIMINATION IN THE TREATMENT OF HANDICAPPED AND DISABLED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 168 of the General Statutes of North Carolina is hereby amended by the addition of a new section thereto which shall be designated as G.S. 168-10 to read as follows:

"§ 168-10. *Eliminate discrimination in treatment of handicapped and disabled.*—Each handicapped person shall have the same consideration as any other person for individual accident and health insurance coverage, and no insurer, solely on the basis of such person's handicap, shall deny such coverage or benefits. The availability of such insurance shall not be denied solely due to the handicap, provided, however, that no such insurer shall be prohibited from excluding by waiver or otherwise, any pre-existing conditions from such coverage, and further provided that any such insurer may charge the appropriate premiums or fees for the risk insured on the same basis and

conditions as insurance issued to other persons. Nothing contained herein or in any other statute shall restrict or preclude any insurer governed by Chapter 57 or Chapter 58 of the General Statutes from setting and charging a premium or fee based upon the class or classes of risks and on sound actuarial and underwriting principles as determined by such insurer, or from applying its regular underwriting standards applicable to all classes of risks."

Sec. 2. The provisions of this act shall apply to both corporations governed by Chapter 57 and Chapter 58 of the General Statutes.

Sec. 3. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 858 CHAPTER 895

AN ACT TO PERMIT SALES AND USE TAX REFUNDS ON MEDICINES AND DRUGS PURCHASED BY CERTAIN HOSPITALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.14(b) is amended by inserting a new sentence between the second and third sentences thereof, to read as follows:

"The Secretary of Revenue shall also make refunds semiannually to all other hospitals (not specifically excluded herein) of sales and use tax paid by them on medicines and drugs purchased for use in carrying out the work of such hospitals."

Sec. 2. This act shall become effective on July 1, 1977, but shall apply only to taxes paid on and after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 877 CHAPTER 896

AN ACT TO INCREASE REPRESENTATION ON THE APPRENTICESHIP COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 94-2, as it appears in Volume 2C of the General Statutes of North Carolina, is hereby rewritten to read as follows:

"§ 94-2. *Apprenticeship Council.*—The Commissioner of Labor shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively and three representatives from the public at large. One State official designated by the Department of Public Instruction and one State official designated by the Department of Community Colleges shall be a member ex officio of said council, without vote. The terms of office of the members of the Apprenticeship Council first appointed by the Commissioner of Labor shall expire as designated by the commissioner at the time of making the appointment: two representatives each of employers and employees, being appointed for one year and one representative of the public at large being appointed for two years; and one representative each of employers, employees, and the public at large being appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be

appointed for the remainder of said term. Each member of the council not otherwise compensated by public moneys, shall be reimbursed for transportation and shall receive such per diem compensation as is provided generally for boards and commissions under the biennial maintenance appropriation acts for each day spent in attendance at meetings of the Apprenticeship Council. The Commissioner of Labor shall annually appoint one member of the council to act as its chairman."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to the Department of Labor to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1015 CHAPTER 897

AN ACT TO CREATE A NURSING HOME PATIENTS' BILL OF RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is hereby amended by adding a new Article to read as follows:

"ARTICLE 30.

"Nursing Home Patients'

Bill of Rights.

"§ 130-264. *Legislative intent.*—It is the intent of the General Assembly to promote the interests and well-being of the patients in nursing homes and homes for the aged and infirm licensed pursuant to G.S. 130-9(e). It is the intent of the General Assembly that every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist the patient in the fullest possible exercise of these rights.

"§ 130-265. *Definitions.*—(1) 'Administrator' means an administrator of a facility.

(2) 'Facility' means a nursing home and a home for the aged and infirm licensed pursuant to G.S. 130-9(e).

(3) 'Patient' means a person who has been admitted to a facility.

(4) 'Representative Payee' means a person certified by the federal government to receive and disburse benefits for a recipient of governmental assistance.

"§ 130-266. *Declaration of patients' rights.*—All facilities shall treat their patients in accordance with the provisions of this Article. Every patient shall have the following rights:

(1) to be treated with consideration, respect, and full recognition of his dignity and individuality;

(2) to receive care, treatment and services which are adequate, appropriate, and in compliance with relevant federal and State laws and rules;

(3) to receive at the time of admission and during his stay, a written statement of the services provided by the facility, including those required to be offered on an as-needed basis, and of related charges. Charges for services not covered under Medicare or Medicaid shall be specified. Upon receiving such

statement, the patient shall sign a written receipt which must be retained by the facility in the patient's file;

(4) to have on file in the patient's record a written or verbal order of the attending physician containing such information as the attending physician deems appropriate or necessary, together with the proposed schedule of medical treatment. The patient shall give prior informed consent to participation in experimental research. Written evidence of compliance with this subdivision including signed acknowledgments by the patient, shall be retained by the facility in the patient's file;

(5) to receive respect and privacy in his medical care program. Case discussion, consultation, examination, and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential and the written consent of the patient shall be obtained for their release to any individual, other than family members, except as needed in case of the patient's transfer to another health care institution or as required by law or third party payment contract;

(6) to be free from mental and physical abuse and, except in emergencies, to be free from chemical and physical restraints unless authorized for a specified period of time by a physician according to clear and indicated medical need;

(7) to receive from the administrator or staff of the facility a reasonable response to his requests;

(8) to associate and communicate privately and without restriction with persons and groups of his own choice on his own or their initiative at any reasonable hour; to send and receive mail promptly and unopened, unless the patient is unable to open and read his or her own mail; to have access at any reasonable hour to a telephone where he may speak privately; and to have access to writing instruments, stationery, and postage;

(9) to manage his own financial affairs unless such authority has been delegated to another pursuant to a power of attorney, or written agreement, or some other person or agency has been appointed for such purpose pursuant to law. Nothing shall prevent the patient and facility from entering a written agreement for the facility to manage the patient's financial affairs. In the event that the facility manages the patient's financial affairs, it shall have available for inspection an accounting and shall furnish the patient with a quarterly statement of the patient's account. The patient shall have reasonable access to such account at reasonable hours; the patient or facility may terminate the agreement for the facility to manage his financial affairs at any time upon five days' notice;

(10) to enjoy privacy in visits by his spouse, and, if both are inpatients of the facility, they shall be afforded the opportunity where feasible to share a room;

(11) to enjoy privacy in his room;

(12) to present grievances and recommend changes in policies and services, personally or through other persons or in combination with others, on behalf of himself or others to the facility's staff, the community advisory committee, the administrator, the Department of Human Resources, or other persons or groups without fear of reprisal, restraint, interference, coercion, or discrimination;

(13) to not be required to perform services for the facility without his consent and the written approval of the attending physician;

(14) to retain, to secure storage for, and to use his personal clothing and possessions, where reasonable;

(15) to not be transferred or discharged from a facility except for medical reasons, the patient's own or other patients' welfare, nonpayment for the stay, or when the transfer or discharge is mandated under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act. The patient shall be given at least five days' advance notice to insure orderly transfer or discharge, unless the attending physician orders immediate transfer, and such actions, and the reasons therefor, shall be documented in his medical record.

"§ 130-267. *Incompetence.*—If the patient is adjudicated incompetent or designates another in writing the power to manage his financial affairs, then in such event, his attorney in fact, guardian of the person, general guardian, or such other person, no matter how designated, may sign any documents required by the provisions of this Article, may otherwise do or perform any other act, and may receive or furnish any information required by this Article.

"§ 130-268. *No waiver of rights.*—No facility may require a patient to waive the rights specified in G.S. 130-266.

"§ 130-269. *Notice to patient.*—(a) A copy of this Article shall be posted conspicuously in a public place in all facilities. Copies of this Article shall be furnished to the patient upon admittance to the facility, to all patients currently residing in the facility, to the sponsoring agency, to a representative payee of the patient, or to any person designated in G.S. 130-267, and to the patient's next of kin, if requested. Receipts for the statement signed by these persons shall be retained in the facility's files.

(b) The address and telephone number of the section in the Department of Human Resources responsible for the enforcement of the provisions of this Article shall be posted and distributed with copies of the Article. The address and telephone number of the county social services department shall also be posted and distributed.

"§ 130-270. *Responsibility of administrator.*—Responsibility for implementing the provisions of this Article shall rest on the administrator of the facility.

"§ 130-271. *Staff training.*—Each facility shall provide appropriate staff training to implement each patient's right included in G.S. 130-266.

"§ 130-272. *Civil action.*—Every patient shall have the right to institute a civil action for injunctive relief to enforce the provisions of this Article. The Department of Human Resources, a general guardian, or any person appointed as guardian *ad litem* pursuant to law, may institute an action pursuant to this section on behalf of the patient or patients. Any agency or person above named may enforce the rights of the patient specified in G.S. 130-266 which the patient himself is unable to enforce.

"§ 130-273. *Enforcement and investigation; confidentiality.*—(a) The Department of Human Resources shall be responsible for the enforcement of the provisions of this Article. The department shall investigate complaints made to it and reply within a reasonable time, not to exceed 60 days, upon receipt of a complaint.

(b) The department is authorized to inspect patients' medical records maintained at the facility when necessary to investigate any alleged violation of this Article.

(c) The department shall maintain the confidentiality of all persons who register complaints with the department and of all medical records inspected by the department.

"§ 130-274. *Revocation of license.*—The Department of Human Resources shall have the authority to revoke a license issued pursuant to G.S. 130-9(e) in any case where it finds that there has been a substantial failure to comply with the provisions of this Article.

Such revocation shall be effected by mailing to the licensee by registered mail, or by personal service of, a notice setting forth the particular reasons for such action. Such revocation shall become effective 20 days after the mailing or service of the notice, unless the applicant or licensee, within such 20-day period, shall give written notice to the Department of Human Resources requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the licensee shall be given a prompt and fair hearing pursuant to the Administrative Procedure Act. At any time at or prior to the hearing, the Department of Human Resources may rescind the notice of revocation upon being satisfied that the reasons for the revocation have been or will be removed.

"§ 130-275. *Penalties; remedies.*—(a) The department shall impose an administrative penalty in accordance with provisions of this Article on any facility

(1) which substantially fails to comply with this Article, or

(2) which refuses to allow an authorized representative of the Department of Human Resources to inspect the premises and records of the facility.

(b) Each day of a continued violation shall constitute a separate violation. The penalty for each violation shall be ten dollars ($10.00) per day per patient affected by the violation.

(c) Any facility wishing to contest a penalty shall be entitled to an administrative hearing as provided in the Administrative Procedure Act.

(d) The secretary may bring a civil action in the Superior Court of Wake County to recover the amount of the administrative penalty whenever a facility

(1) which has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or

(2) which has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150A-36.

"§ 130-276. *Provisions inapplicable.*—G.S. 130-203 and G.S. 130-205 shall be inapplicable to this Article."

Sec. 2. G.S. 130-9(e) is amended by adding a new subdivision to read as follows:

"(7) Community advisory committee.

a. In order for a nursing home and home for the aged and infirm to be licensed under this subsection, the home shall be served by a community advisory committee which shall work with the home for the best interests of the persons residing in the home. Each committee shall consist of five persons. Three shall be appointed by the board of county commissioners of the county in which the home is located, one of whom shall be designated chairman; and two shall be appointed by the home. Each member appointed shall be a resident of the county in which the home is located. No person or immediate family member of a person with a financial interest in a home, or employee or immediate family member of an employee of a home, or immediate family member of a patient in a home may be a member of a committee. The members of the community advisory committee shall serve without compensation. The

names of the committee members shall be filed with the Division of Aging, which shall supply a copy to the Division of Facilities Services.

b. The duties of the community advisory committee shall be to:

1. visit each home it serves at least quarterly, but as often as it deems necessary to carry out its duties;

2. appraise itself of the general conditions under which the persons are residing in the homes; and

3. work for the best interests of the persons in the homes. This may include representing persons who have grievances to the home and facilitating the resolution of grievances. Whenever possible, the committee shall attempt to facilitate the resolution of grievances at the local level.

The community advisory committee may, at any time it deems necessary, communicate, through its chairman, with the Department of Human Resources or any other agency in relation to the interests of any patient. The names of all complaining persons shall remain confidential, unless written permission is given for disclosure.

c. Each home shall cooperate with its community advisory committee as it carries out the aforementioned duties. Any member of a community advisory committee shall have the right to enter into any facility he serves at any reasonable hour in order to carry out the aforementioned duties."

Sec. 3. Nothing in this act shall be construed to interfere with the practice of medicine or the physician-patient relationship.

Sec. 4. The provisions of this act shall become effective January 1, 1978, except Section 2 of this act which shall become effective on March 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1036 CHAPTER 898

AN ACT TO PROVIDE A ONE THOUSAND DOLLAR EXEMPTION FROM INCOME TAX FOR INDIVIDUALS WHO ARE DEAF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-149(a) of the North Carolina General Statutes is hereby amended by adding a new subdivision thereto to read as follows:

"(8b) In the case of any person who is deaf, such person shall be entitled to an additional exemption of one thousand dollars ($1,000) in addition to all other exemptions allowed by law. For purposes of this subdivision, an individual is deaf only if his average loss in the speech frequencies (500 to 2000 Hertz) in the better ear is 86 decibels (I.S.O.) or worse. Provided, such person shall submit to the Department of Revenue a certificate from a physician certifying that such condition exists."

Sec. 2. This act shall become effective for income tax years beginning on and after January 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1048 CHAPTER 899

AN ACT TO WAIVE APPRENTICESHIP FOR COSMETOLOGY APPLICANTS WITH 1500 HOURS OF COSMETOLOGY EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-12, as the same appears in the 1975 Replacement Volume 2C is hereby amended by striking the first sentence in its entirety and by striking subsection (4) in its entirety and by rewriting subsection (4) to read as follows:

"(4) Who has worked as a registered apprentice for a period of at least six months under the direct supervision of a registered managing cosmetologist, and this fact must be demonstrated to the Board of Cosmetic Art Examiners by the sworn affidavit of three registered cosmetologists, or by such other methods of proof as the board may prescribe and deem necessary; or has completed 300 hours of cosmetic art education in a cosmetic art school, public school or post secondary institution (community college or technical institute), college or university approved by the board in addition to the 1,200 hours set out in G.S. 88-10, making a total of 1,500 hours, and".

Sec. 2. This act shall become effective July 1, 1977, and shall apply to any student who enrolls in a cosmetic art school or college approved by the board on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1052 CHAPTER 900

AN ACT TO ALLOW DEDUCTIONS FOR INDIVIDUAL INCOME TAX PURPOSES FOR CONTRIBUTIONS MADE BY AN INDIVIDUAL FOR THE BENEFIT OF HIMSELF AND HIS SPOUSE TO INDIVIDUAL RETIREMENT ACCOUNTS, INDIVIDUAL RETIREMENT ANNUITIES, OR INDIVIDUAL RETIREMENT BONDS WHICH ARE DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES, AND TO EXEMPT FROM INHERITANCE TAX DISTRIBUTIONS FROM SUCH RETIREMENT PLANS WHICH ARE EXCLUDED FROM THE DECEDENT'S GROSS ESTATE FOR FEDERAL ESTATE TAX PURPOSES, AND TO MAKE OTHER TECHNICAL AMENDMENTS TO CHAPTER 105.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(20) as it appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes of North Carolina is hereby amended by striking out "within the income year" in the first line of said subdivision; by adding after the word "benefit" in the ninth line of said subdivision the following: "or for the benefit of himself and his spouse"; by changing the semicolon after the word "hereunder" in the twenty-first line of said subdivision to a period; and by striking out "provided further, that in the case of taxpayers on the accrual basis, they shall be deemed to have made payments on the last day of the year of accrual if actual payments are made within the time fixed by statute for filing the taxpayer's return" which begins on the twenty-second line of said subdivision.

Sec. 2. G.S. 105-3(5) is hereby amended by striking out "other payment receivable by any beneficiary" in the first sentence of said subdivision and inserting in lieu thereof "other payment (other than a lump sum distribution described in Section 402(e)(4) of the United States Internal Revenue Code, determined without regard to the next to the last sentence of Section 402(e)(4)(A) of such code) receivable by any beneficiary"; by striking out "paragraph 3 of Section 401(a)" in the twelfth line of said subdivision and inserting in lieu thereof "Section 403(a)"; and by inserting after the third sentence of said subdivision and before the sentence which begins with the word "Provided" in the twenty-second line thereof the following:

"For purposes of this subdivision, contributions or payments on behalf of the decedent while he was an employee within the meaning of Section 401(c)(1) of the United States Internal Revenue Code made under a trust or plan described in clause (a) or (b) shall, to the extent allowable as a deduction under Section 404 of such code, be considered to be made by a person other than the decedent and, to the extent not so allowable, shall be considered to be made by the decedent."

Sec. 3. G.S. 105-3 is hereby amended by adding at the end thereof a new subdivision (6) to read as follows:

"(6) The value of an annuity receivable by any beneficiary (other than the executor) under:

a. an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1954 as amended,

b. an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1954 as amended, or

c. a retirement bond described in Section 409(a) of the Internal Revenue Code of 1954 as amended.

If any payment to an account described in paragraph a. or for an annuity described in paragraph b. or a bond described in paragraph c. was not allowable as a deduction under Section 219 or 220 of the Internal Revenue Code of 1954 as amended and was not a rollover contribution described in Section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C) of such code, the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under Section 219 or 220 of such code and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subdivision, the term 'annuity' means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death."

Sec. 4. G.S. 105-141(a)(20) as it appears in the 1975 Cumulative Supplement to Volume 2D of the General Statutes of North Carolina is hereby amended, to correct a typographical error in said subdivision, to read as follows:

"(20) Subject to the provisions of G.S. 105-141(b)(4), amounts received or made available from:

a. Individual retirement accounts described in Section 408(a) of the Internal Revenue Code of 1954 as amended;

b. Individual retirement annuities described in Section 408(b) of the Internal Revenue Code of 1954 as amended; and

c. Retirement bonds described in Section 409 of the Internal Revenue Code of 1954 as amended

to the extent such amounts are includable in the recipient's gross income under the Internal Revenue laws of the United States."

Sec. 5. G.S. 105-135 is hereby amended by adding at the end thereof a new subdivision (15) to read as follows:

"(15) the words 'Internal Revenue Code', 'Internal Revenue Code of 1954', 'Internal Revenue Code of 1954 as amended' and 'United States Internal Revenue Code' mean the Internal Revenue Code of 1954 as from time to time amended by the Congress of the United States of America and in effect for the applicable taxable period."

Sec. 6. G.S. 105-141(b)(17) is hereby amended by changing the period at the end of the first sentence of paragraph b. to a semicolon and by adding after said semicolon the following: "provided, however, that in the case of an employee who makes an election under Section 415(c)(4)(D) of the Internal Revenue Code of 1954 as amended to have the provisions of Section 415 apply, the exclusion allowance of the employee shall be computed under the provisions of Section 415 of the Internal Revenue Code of 1954 as amended", and by adding a new paragraph c. immediately following paragraph b. to read as follows:

"c. For purposes of this division, amounts paid by an employer described in paragraph a. of this subdivision to a custodial account which satisfies the requirements of Section 401(f)(2) of the Internal Revenue Code of 1954 as amended shall be treated as amounts contributed by him for an annuity contract for his employee if the amounts are paid to provide a retirement benefit for that employee and are to be invested in regulated investment company stocks to be held in that custodial account. For purposes of this division, a custodial account which satisfies the requirements of Section 401(f)(2) of the Internal Revenue Code of 1954 as amended shall be treated in the same manner as an exempt trust qualifying under the provisions of G.S. 105-161(f)(1)a. solely for purposes of taxing the income earned or received by such account."

Sec. 7. Sections 1, 5 and 6 of this act shall be effective for income years beginning on or after January 1, 1977; Sections 2 and 3 shall be effective for estates of decedents dying after December 31, 1976; and Section 4 shall be effective for income years beginning on or after January 1, 1976.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1074 CHAPTER 901

AN ACT TO AMEND G.S. 7A-284 TO AUTHORIZE DISTRICT COURT JUDGES TO ISSUE ORAL IMMEDIATE CUSTODY ORDERS IN CERTAIN CHILD ABUSE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-284, as it appears in the 1969 Replacement Volume 1B, is amended by designating the current provision as subsection "(a)" and by adding the following:

"(b) Upon a written petition to a magistrate by a parent, county director of social services or social worker, sheriff or deputy sheriff to a magistrate when the office of the clerk is not open or when a district court judge is not in the county of the petitioning party alleging that a child is in danger or subject to serious neglect of his or her health or morals or that the best interest of the child requires that the court assume immediate custody of the child, the magistrate may receive the petition and upon the oral direction of a district court judge of the judicial district in which the petitioner resides or is employed, may issue an order under the name of said judge by his oral authority given after the petition is presented directing that the sheriff take custody of the child and place said child in the custody of the county director of social services or a social worker charged with protective services duties for a period of 72 hours. The magistrate shall upon opening of the clerk's office file said petition and order with the clerk of superior court of the county. A district court judge upon a preliminary hearing on the facts set out in the petition may extend said order until a hearing is held on the merits. If the order is not extended the child shall be returned to the person or persons from whose custody he or she was taken."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1095 CHAPTER 902

AN ACT TO INCREASE DRIVER LICENSE POINTS FOR SPEED VIOLATIONS IN SCHOOL ZONE.

The General Assembly of North Carolina enacts:

Section 1. The Schedule of Point Values appearing in G.S. 20-16(c) is hereby amended by adding the following words and numbers: "Speeding in a school zone in excess of the posted school zone speed limit.....3."

Sec. 2. A new G.S. 20-141.1 is hereby added to Chapter 20, to read as follows:

"§ 20-141.1. *Speed limits in school zones.*—The Board of Transportation or local authorities within their respective jurisdictions may, by ordinance, set speed limits lower than those designated in G.S. 20-141 for areas adjacent to or near a public, private or parochial school. Limits set pursuant to this section shall become effective when signs are erected giving notice of the school zone, the authorized speed limit, and the days and hours when the lower limit is effective. Limits set pursuant to this section may be enforced only on days when school is in session, and no speed limit below 20 miles per hour may be set under the authority of this section."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1152 CHAPTER 903

AN ACT TO IMPOSE THE ONE PERCENT, EIGHTY DOLLAR MAXIMUM SALES AND USE TAX RATE UPON CERTAIN SALES OF MILL MACHINERY TO CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1)h as the same appears in the 1975 Cumulative Supplement Volume 2D of the General Statutes is hereby rewritten to read as follows:

"h. Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors purchasing mill machinery or mill machinery parts and accessories for use by them in the direct performance of contracts with manufacturing industries and plants."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1216 CHAPTER 904

AN ACT TO ENABLE REGISTERED AND LICENSED PRACTICAL NURSES TO CARRY OUT THE ORDERS OF PHYSICIANS' ASSISTANTS UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-18.1, as the same appears in the 1975 Cumulative Supplement to the General Statutes, is amended by adding a new paragraph to read as follows:

"Any such person approved by the Board of Medical Examiners may order the administration of medications and treatment by a registered nurse or licensed practical nurse in accordance with regulations adopted by the board and under written standing orders of the supervising physician previously made available to such registered nurse or licensed practical nurse. The supervising physician shall be held personally responsible for any and all oral or written standing orders duly performed by a registered nurse or licensed practical nurse at the direction of a physician's assistant or nurse practitioner."

Sec. 2. G.S. 90-158(3)a, as the same appears in Volume 2C of the General Statutes, is amended by deleting the period after the words "or dentist" where they appear in line 8 of such subdivision and adding the following:

"or any registered nurse or assistant to a physician when authorized under the provisions of G.S. 90-18.1."

Sec. 3. G.S. 90-158(3)b, as the same appears in Volume 2C of the General Statutes, is amended to add after the word and punctuation "dentist," in line 9 the following:

"or any registered nurse or assistant to a physician when authorized under the provisions of G.S. 90-18.1,".

Sec. 4. G.S. 90-167, as the same appears in Volume 2C of the General Statutes, is amended by adding the following paragraph at the end thereof:

"Nothing in this Article shall be construed in any way to prohibit or limit the performance of any registered nurse who is approved to perform medical acts under the provisions of Article 1 of this Chapter."

Sec. 5. This act shall become effective upon ratification.

Sec. 6. The provisions of this act shall expire on July 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1233 CHAPTER 905

AN ACT AUTHORIZING THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE TO REGULATE THE PROCESSING AND MARKETING OF PEN-RAISED QUAIL.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, or any rule or regulation of the Wildlife Resources Commission, the North Carolina Department of Agriculture is hereby given exclusive authority to regulate the production and sale of pen-raised quail for food purposes. The Department of Agriculture shall promulgate rules and regulations for the production and sale of pen-raised quail for food purposes in such a manner as to provide for close supervision of any person, firm or corporation producing and selling pen-raised quail for food purposes.

Sec. 1.5. G.S. 113-105.2(a), as the same appears in the 1975 Replacement to Volume 3A of the General Statutes, is hereby amended on line 3 thereof by inserting between the words "of" and "pen-raised" the word "live".

Sec. 2. The Wildlife Resources Commission shall retain its authority to regulate the possession and transportation of live pen-raised quail.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1289 CHAPTER 906

AN ACT TO RESTRUCTURE THE WILDLIFE RESOURCES COMMISSION AND TO MAKE OTHER NECESSARY CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-240 as the same appears in the 1974 Replacement Volume 3C of the General Statutes is amended as follows:

(a) by rewriting the first paragraph to read as follows:

"There is hereby created the Wildlife Resources Commission of the Department of Natural and Economic Resources which shall consist of 13 citizens of North Carolina who shall be appointed as is hereinafter provided. The Governor shall appoint one member of the commission from each of the following geographical districts:";

(b) by inserting before the last paragraph in the section a new paragraph to read as follows:

"The Governor shall appoint two members of the commission from the State at-large. The Lieutenant Governor shall appoint one member of the commission from the membership of the Senate. The Speaker of the House of

Representatives shall appoint one member of the commission from the membership of the House of Representatives.";

(c) by inserting after the last paragraph a new paragraph to read as follows:

"Members of the commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6 as the case may be, which shall be paid from the Wildlife Resources Commission Fund."

Sec. 2. G.S. 143-241 as the same appears in the 1974 Replacement Volume 3C of the General Statutes is amended as follows:

(a) by inserting after the word "Vacancies" in the first line of the seventh paragraph the words "among the membership of the commission appointed by the Governor from the several districts"; and

(b) by adding at the end thereof a new paragraph to read as follows:

"Members of the commission appointed from the State at-large shall be appointed initially for terms expiring April 1, 1981, and thereafter for terms of four years. Each member of the commission appointed by the Lieutenant Governor and each member of the commission appointed by the Speaker of the House of Representatives shall be appointed for a two-year term beginning on July 1, 1977, and on July 1 of each odd-numbered year thereafter and shall serve until his successor is appointed and qualifies."

Sec. 3. G.S. 143-242 is amended and rewritten to read as follows:

"Appointments to fill vacancies of gubernatorial appointees on the commission occurring by reason of death, disability, resignation or otherwise shall be made by the Governor for the balance of the unexpired terms by appointment of a member from the State at-large, or from the appropriate district in accordance with the procedure set out in G.S. 143-241. Appointments to fill vacancies of those members of the commission appointed by the Lieutenant Governor or appointed by the Speaker of the House of Representatives which occur by reason of death, disability, resignation or otherwise shall be made by the appointing authority who originally appointed the member whose death, disability or resignation created the vacancy. The Governor shall have the power to remove any member of the commission from office for misfeasance, malfeasance or nonfeasance."

Sec. 4. G.S. 143-243 is amended and rewritten to read as follows:

"The commission shall hold at least two meetings annually in the City of Raleigh, one in January and one in July, and seven members of the commission shall constitute a quorum for the transaction of business. Additional meetings may be held at such other times and places within the State as may be deemed necessary for the efficient transaction of the business of the commission. The commission may hold additional or special meetings at any time at the call of the chairman or on call of any five members of the commission. The commission shall determine its own organization and methods of procedure in accordance with the provisions of this Article, and shall have an official seal, which shall be judicially noticed.

At the first scheduled meeting of the commission after July 1, 1977, and on July 1 of each odd-numbered year thereafter, the commission shall select from among its membership a chairman and a vice-chairman who shall serve for terms of two years or until their successors are elected and qualified. The Secretary of Natural and Economic Resources or his designee shall serve as secretary of the commission.

The chairman shall guide and coordinate the official actions and official activities of the commission in fulfilling its program responsibility for (1) the appointment and separation of the executive director of the commission, (2) organizing the personnel of the commission, (3) setting the statewide policy of the commission, (4) budgeting and planning the use of the Wildlife and Motorboat Funds, subject to the approval of the Advisory Budget Commission and the legislature, (5) holding public hearings, and (6) adopting regulations as authorized by law. The chairman shall report to and advise the Governor on the official actions and work of the commission and on all wildlife conservation and boating safety matters that affect the interest of the people of the State.

Meetings of the commission shall be conducted pursuant to Roberts Rules of Order."

Sec. 5. G.S. 143-245 is repealed.

Sec. 6. The terms of the incumbent members of the commission shall not expire until the end of the terms for which they were appointed. The terms of any officers of the commission shall be terminated on July 1, 1977.

Sec. 7. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1313 CHAPTER 907

AN ACT TO REQUIRE THE RENDERING INOPERABLE OF SYRINGES BEFORE DISCARDING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 90-113.4A. *Rendering inoperable of hypodermic syringes and needles required before discarding.*—(a) It shall be unlawful for any firm, organization, corporation, hospital, medical clinic, their agents or employees to discard a hypodermic syringe or needle unless such instrument is first rendered inoperable for future use; provided that this section shall not apply to the discarding of such instruments after personal use by individuals who are under the care of a physician, and further provided that this section shall not apply to the discarding of such instruments after use for the treatment of livestock.

(b) Violation of this section shall be a misdemeanor."

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1329 **CHAPTER 908**

AN ACT TO PROVIDE WORKMEN'S COMPENSATION COVERAGE AND OTHER BENEFITS FOR PERSONS SERVING AS VOLUNTEER A.B.C. OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-20 is hereby amended by adding a new subsection (c) thereto to read as follows:

"(c) A city or county board of alcoholic control may provide by resolution that persons who serve as volunteer A.B.C. officers at the request of the chief A.B.C. officer and under his authority, while undergoing official training and while performing duties on behalf of the city or county A.B.C. Board pursuant to orders or instructions of said chief A.B.C. officer shall be entitled to benefits under the North Carolina Workmen's Compensation Act and to any fringe benefits for which such persons qualify."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1357 **CHAPTER 909**

AN ACT TO AMEND G.S. 135 TO PERMIT VESTED MEMBERS TO PURCHASE CREDIT FOR SPECIFIC PERIOD OF ABSENCE FROM STATE EMPLOYMENT FOR EDUCATIONAL ADVANCEMENT WHEN LEAVE OF ABSENCE FOR SAID PURPOSE WAS NOT AVAILABLE TO MEMBER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-8 Method of Financing, paragraph (5) is amended without alteration of the language in the paragraph, but with additional provisions as follows:

"And, in such cases where the member unsuccessfully petitioned for official leave of absence, and did have interrupted State employment without withdrawal of retirement system contributions, and did complete an educational program which in the opinion of the board of trustees increased his efficiency upon return to State employment, and where the interrupted State employment was only of such duration and for the sole purpose of completing said education, the employee returned to State employment at the first opportunity not to exceed four years from the date he resigned for the purpose of completing said education, that after resuming State employment and full participation in the retirement system for not less than 10 consecutive years or age 65 he or she be permitted to purchase credit for said period of absence from State employment for a period of time not to exceed four years only by a lump sum payment based on the employee's compensation rate at the time of his or her separation from State employment, and that said lump sum payment shall be equal to the full cost of providing such credit including the employer portion of the funding cost plus interest and a fee to cover handling of the adjustment which fee shall be determined by the board of trustees."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1399 **CHAPTER 910**

AN ACT TO AMEND THE RULES OF CIVIL PROCEDURE RELATING TO SERVICE BY PUBLICATION IN CASES OF ATTACHMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4(j)(9)c., as the same appears in the 1975 Cumulative Supplement to Volume 1A of the General Statutes, is hereby amended by inserting in the 15th line of the second paragraph, after "sought;" and before "(vi) be" a new item "(vi)" to read as follows:

"(vi) In cases of attachment, state the information required by G.S. 1-440.14;".

Sec. 2. G.S. 1A-1, Rule 4(j)(9)c. is hereby further amended by renumbering items "(vi)" and "(vii)" in the second paragraph as items "(vii)" and "(viii)" respectively.

Sec. 3. G.S. 1A-1, Rule 4(j)(9)b., as it appears in the 1975 Cumulative Supplement to Volume 1A, is amended by adding the following sentence:

"This affidavit together with the return receipt signed by the person who received the mail raises a rebuttable presumption that the person who received the mail and signed the receipt was an agent of the addressee authorized by appointment or by law to be served or to accept service of process or was a person of suitable age and discretion residing in the defendant's dwelling house or usual place of abode."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1432 **CHAPTER 911**

AN ACT TO AMEND CHAPTER 18A OF THE GENERAL STATUTES TO AUTHORIZE AN ESTABLISHMENT WITH AN "ON PREMISE" WINE PERMIT TO CONTINUE SELLING "ON PREMISE" WINE NO MORE THAN 30 DAYS IN THE EVENT THE SANITATION GRADE IS REDUCED TO GRADE B.

The General Assembly of North Carolina enacts:

Section 1. Subsection (f) of G.S. 18A-38, as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is amended by adding the following sentence to the end of said subsection to read as follows:

"In the event a Grade A restaurant with an 'on premise' permit receives a Grade B sanitation rating, the establishment must stop selling 'on premise' wine after 30 days until the Grade A is restored."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1493 **CHAPTER 912**

AN ACT TO AMEND PROVISIONS OF CHAPTER 160A OF THE GENERAL STATUTES TO ELIMINATE INCONSISTENCIES, CLARIFY PROVISIONS, AND IMPROVE ADMINISTRATIVE PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. Unless otherwise provided herein, all references in this act to sections included in Chapter 160A of the General Statutes refer to those sections as they appear in the 1976 Replacement Volume 3D of the General Statutes.

Sec. 2. G.S. 160A-360(f) is hereby amended in line 5 thereof by inserting immediately after the word "annexation" and before the words "or incorporation", the word and punctuation ", extension".

Sec. 3. Subsections (g), (h), (i), and (j) of G.S. 160A-360 are hereby renumbered as subsections (h), (i), (j), and (k), respectively.

Sec. 4. G.S. 160A-360 is hereby amended by adding a new subsection (g) immediately after subsection (f) to read as follows:

"(g) When a city relinquishes jurisdiction over an area that it is regulating under this Article to a county, the city regulations and powers of enforcement shall remain in effect until (i) the county has adopted this regulation or (ii) a period of 60 days has elapsed following the action by which the city relinquished jurisdiction, whichever is sooner. During this period the county may hold hearings and take other measures that may be required in order to adopt its regulations for the area."

Sec. 5. G.S. 160A-364 is hereby amended by adding at the end thereof the following sentence:

"Such period shall be computed in compliance with G.S. 1-594, and shall not be subject to Rule 6(a) of the Rules of Civil Procedure."

Sec. 6. Subdivision (1) of G.S. 160A-376 is hereby amended by deleting in line 1 the word "platted" and substituting therefor the words "subdivided and recorded".

Sec. 7. G.S. 160A-385 is hereby amended by adding at the end thereof the following sentence:

"The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise."

Sec. 8. G.S. 160A-387 is hereby rewritten to read as follows:

"In order to exercise the powers conferred by this Part, a city council shall create or designate a planning agency under the provisions of this Article or of a special act of the General Assembly. The planning agency shall prepare a proposed zoning ordinance, including both the full text of such ordinance and maps showing proposed district boundaries. The planning agency may hold public hearings in the course of preparing the ordinance. Upon completion, the planning agency shall certify the ordinance to the city council. The city council shall not hold its required public hearing or take action until it has received a certified ordinance from the planning agency. Following its required public hearing, the city council may refer the ordinance back to the planning agency for any further recommendations that the agency may wish to make prior to final action by the city council in adopting, modifying and adopting, or rejecting the ordinance."

Sec. 9. G.S. 160A-388(a) is hereby amended by adding at the end of line 2, immediately after the word "five" the words "or more".

Sec. 10. G.S. 160A-388(a) is hereby amended by adding at the end thereof the following sentence:

"A city may designate a planning agency to perform the duties of a Board of Adjustment in addition to its other duties."

Sec. 11. G.S. 160A-388(b) is hereby amended by deleting the period at the end of the 5th sentence and adding the following:

"or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance."

Sec. 12. G.S. 160A-388(e) is hereby amended by adding at the end of the subsection the following sentence:

"Any appeal to the superior court shall be taken within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to the appellant by personal service or registered mail, whichever is later."

Sec. 13. G.S. 160A-429 is hereby amended by deleting the period at the end thereof and adding the following words and punctuation:

"; provided, that where the inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible."

Sec. 14. G.S. 160A-445 is hereby amended by rewriting the second sentence thereof to read as follows:

"If the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this Part."

Sec. 15. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1532 CHAPTER 913

AN ACT TO AMEND CHAPTER 468 OF THE SESSION LAWS OF 1977.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-10(a), as the same appears in Section 1 of Chapter 468 of the 1977 Session Laws, is hereby amended by deleting therefrom the following sentence:

"Not less than two members of the Commission shall be persons licensed to practice law in North Carolina".

Sec. 2. G.S. 62-13(b), as the same appears in Section 2 of Chapter 468 of the 1977 Session Laws, is hereby amended by deleting from the last sentence of said subsection (b) the word "law".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 453

CHAPTER 914

AN ACT TO REGULATE THE HANDLING OF TENANT SECURITY DEPOSITS IN RESIDENTIAL DWELLING UNITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 42 of the General Statutes is hereby amended by inserting therein a new Article 5 to read as follows:

"ARTICLE 5.

"Tenant Security Deposit Act.

"§ 42-38. *Deposits from the tenant.*—Security deposits from the tenant in residential dwelling units shall be deposited in a trust account with a licensed and insured bank or savings institution located in the State of North Carolina or the landlord may, at his option, furnish a bond from an insurance company licensed to do business in North Carolina. The security deposits from the tenant may be held in a trust account outside of the State of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of said deposits. The landlord or his agent shall notify the tenant within 30 days after the beginning of the lease term of the name and address of the bank or institution where his deposit is currently located or the name of the insurance company providing the bond.

"§ 42-39. *Permitted uses of the deposit.*—Security deposits for residential dwelling units shall be permitted only for the tenant's possible nonpayment of rent, damage to the premises, nonfulfillment of rental period, any unpaid bills which become a lien against the demised property due to the tenant's occupancy, costs of re-renting the premises after breach by the tenant, or court costs in connection with terminating a tenancy. Such security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two months' rent for terms greater than month to month. These deposits must be fully accounted for by the landlord as set forth in G.S. 42-40.

"§ 42-40. *Landlord's obligations.*—Upon termination of the tenancy, money held by the landlord as security may be applied as permitted in G.S. 42-39 or, if not so applied, shall be refunded to the tenant. In either case the landlord in writing shall itemize any damage and mail or deliver same to the tenant, together with the balance of the security deposit, no later than 30 days after termination of the tenancy and delivery of possession by the tenant. If the tenant's address is unknown the landlord shall apply the deposit as permitted in G.S. 42-39 after a period of 30 days and the landlord shall hold the balance of the deposit for collection by the tenant for at least six months. The landlord may not withhold as damages part of the security deposit for conditions that are due to normal wear and tear nor may the landlord retain an amount from the security deposit which exceeds his actual damages.

"§ 42-41. *Pet deposits.*—Notwithstanding the provisions of this section, the landlord may charge a reasonable, nonrefundable fee for pets kept by the tenant on the premises.

"§ 42-42. *Transfer of dwelling units.*—Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent shall, within 30 days, do one of the following acts, either of which shall relieve him of further liability with respect to such payment or deposit:

(1) transfer the portion of such payment or deposit remaining after any lawful deductions made under this section to the landlord's successor in interest and thereafter notify the tenant by mail of such transfer and of the transferee's name and address; or

(2) return the portion of such payment or deposit remaining after any lawful deductions made under this section to the tenant.

"§ 42-43. *Remedies.*—If the landlord or the landlord's successor in interest fails to account for and refund the balance of the tenant's security deposit as required by this Article, the tenant may institute a civil action to require the accounting of and the recovery of the balance of the deposit. In addition to other remedies at law and equity, the tenant may recover damages resulting from noncompliance by the landlord; and upon a finding by the court that the party against whom judgment is rendered was in willful noncompliance with this Article, the court may, in its discretion, allow a reasonable attorney's fee to the duly licensed attorney representing the prevailing party, such attorney's fee to be taxed as part of the cost of court."

Sec. 2. The provisions of this act shall apply to all persons, firms, or corporations engaged in the business of renting or managing residential dwelling units, excluding single rooms, on a weekly, monthly or annual basis.

Sec. 3. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 460 CHAPTER 915

AN ACT PROVIDING FOR THE REVIEW OF ADMINISTRATIVE RULES.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 120 is amended by adding a new Article to read as follows:

"ARTICLE 6C.

"Review of Administrative Rules.

"§ 120-30.19. *Definitions.*—As used in this Article:

(1) 'Agency' means every agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the executive branch of State government, any provision of any other statute to the contrary notwithstanding. The provisions of this Article do not apply to agencies in the judicial branch of State government, agencies in the legislative branch of State government, the Industrial Commission, the Utilities Commission, counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivisions, county or city boards of education, The University of North Carolina, other local public districts, units, or bodies of any kind, or private corporations created by act of the General Assembly.

(2) 'Commission' means the Legislative Research Commission.

(3) 'Committee' means the Administrative Rules Review Committee created by G.S. 120-30.21.

(4) 'Director' means the Director of Research of the Legislative Services Commission.

(5) 'Rule' means every rule, regulation, ordinance, standard, and amendment thereto or repeal thereof adopted by any agency and includes rules and regulations regarding substantive matters, standards for products, and procedural rules for complying with statutory or regulatory authority or with requirements or executive orders of the Governor.

'Rule' does not include:

a. rules, procedures, or regulations that relate only to the internal management of an agency;

b. directives or advisory opinions to any specifically named person or group with no general applicability throughout the State;

c. disposition of any specific issue or matter by the process of adjudication; or

d. orders establishing or fixing rates or tariffs.

"§ 120-30.20. *Filing of rules.*—(a) On October 1, 1977, the Attorney General shall transfer to the office of the Legislative Research Commission a copy of every rule that has been filed with him pursuant to Article 5 of General Statutes Chapter 150A. Rules adopted prior to October 1, 1977, may be reviewed by the committee and by the commission.

(b) Rules adopted by an agency on or after October 1, 1977, shall be filed in the office of the director at the same time filing is made with the Attorney General pursuant to G.S. 150A-59.

(c) The rules filed with the director pursuant to subsection (b) of this section shall be accompanied by a report. This report shall contain:

(1) a brief summary of the content of the rule if adopted or repealed, or a brief summary of the change in the rule if amended;

(2) a citation of the enabling legislation purporting to authorize the adoption, amendment, or repeal of the rule;

(3) a statement of the circumstances that required adoption, amendment, or repeal of the rule; and

(4) a statement of the effective date of the rule.

(d) Executive orders of the Governor are required to be filed, but executive orders of the Governor are not subject to the provisions of G.S. 120-30.23 through G.S. 120-30.30.

"§ 120-30.21. *Administrative Rules Review Committee.*—There is created a permanent committee of the Legislative Research Commission to be known as the Administrative Rules Review Committee. The committee shall be composed of seven members. On October 1, 1977, the cochairmen of the commission shall appoint the committee members from the membership of the General Assembly for terms of two years, and the members so appointed shall elect one of their number to serve as chairman. Any vacancy that occurs in the membership of the committee for any reason other than the expiration of a term shall be filled for the remainder of the unexpired term by election of a member of the General Assembly by the commission at its next meeting after the occurrence of the vacancy. The committee shall perform all of the duties of the commission with respect to reviewing rules of administrative agencies except as provided in G.S. 120-30.25.

"§ 120-30.22. *Meetings of committee.*—The committee shall meet at least monthly at times and places specified by the chairman. The members of the committee shall be compensated for attending meetings as provided in G.S.

120-30.18. Professional, clerical or other employees required by the committee shall be provided in accordance with G.S. 120-32.

"§ 120-30.23. *Review of rules.*—(a) After a rule is filed with the director, he shall submit it to the committee, which may determine whether or not the agency acted within its statutory authority in promulgating the rule.

(b) If the committee finds that an agency did not act within its statutory authority in promulgating a rule the committee shall report that fact to the director who shall transmit the report to the agency that made the rule. The report shall include a written statement of the committee's objections and the reasons therefor.

(c) The committee shall review a rule submitted to it by the director within 60 days following the submission of the rule.

"§ 120-30.24. *Objections of committee.*—The agency that filed a rule to which the committee objects may amend the rule to remove the cause of the committee's objections and return the rule to the committee for further review. The agency may return the rule without change with the committee's notation of objection attached. The agency shall return the rule with or without change within 60 days of the notification to the agency of the committee's objection. When the rule to which the committee has objected is returned without change, the rule and notation of objection shall be referred by the director to the commission.

"§ 120-30.25. *Review of rule by Legislative Research Commission.*—(a) The commission may review the rule in the same manner as the committee to determine whether or not the agency acted within its statutory authority in promulgating the rule.

(b) If the commission determines that an agency did not act within its statutory authority in promulgating a rule, a written statement of its objections and statement of its reasons shall be attached to the rule, and the rule and objection and statement of reasons shall be forwarded to the director, who shall transmit it to the rule-making agency.

(c) The commission shall act on the rule submitted in accordance with G.S. 120-30.24 within 60 days after the rule was returned to the committee by the rule-making agency.

"§ 120-30.26. *Regulation objected to by Legislative Research Commission.*—The agency may revise a rule to remove the cause of the objections of the commission, and may return the revised rule to the commission or it may return the rule without change with the commission's objections attached. The agency shall return the rule with or without change within 30 days of the notification to the agency of the commission's objections.

"§ 120-30.27. *Reports of the committee.*—The committee shall report monthly to the commission on all actions taken on rules.

"§ 120-30.28. *Legislative Research Commission recommendations.*—All rules that have been reviewed by the committee and the commission shall remain in effect. If the agency returns the rule with the committee or commission objections attached without change, the commission may submit a report to the next regular session of the General Assembly recommending legislative action.

"§ 120-30.29. *Emergency rules.*—Rules adopted in accordance with the procedures of G.S. 150A-13 may be reviewed by the committee. The committee, in addition to reviewing the rules, may review the reasons given in the agency finding of emergency.

"§ 120-30.30. *Hearings.*—(a) Notwithstanding the provisions of G.S. 120-30.23(c) and G.S. 120-30.25(c), the cochairmen of the commission may call a public hearing on any rule upon the recommendation of the committee or upon the motion of any member of the commission.

(b) At least 15 days before the hearing, notice of the hearing shall be given to the rule-making agency and to such other persons that desire to be heard, that the cochairmen of the commission consider to be persons that may be affected by the rule, or that may request copies of the notice.

(c) The provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the committee and the commission."

Sec. 2. G.S. 150A-12(b) is amended by adding after "General" and before "and" the following:

"the Director of Research of the Legislative Services Commission".

Sec. 3. G.S. 120-30.17, as it appears in the 1974 Replacement of Volume 3B, is amended by adding two new subdivisions to read as follows:

"(5) To review the rules of all administrative agencies pursuant to Article 6C of this Chapter to determine whether or not the agencies acted within their statutory authority in promulgating the rules.

(6) To meet during the regular session of the General Assembly only for the purposes of reviewing rules pursuant to G.S. 120-30.25 or holding public hearings pursuant to G.S. 120-30.30."

Sec. 4. G.S. 120-30.11, as it appears in the 1975 Cumulative Supplement to Volume 3B, is amended by deleting the period at the end of the second sentence and adding the following clause:

"or at the time of appointment of the subsequent commission, whichever shall be later."

Sec. 5. G.S. 150A-2, as it appears in the 1975 Cumulative Supplement to Volume 3C, is amended by adding two new subdivisions to read as follows:

"(9) 'Valid' means that the rule has been adopted pursuant to the procedure required by law. A valid rule is unenforceable until it is made effective.

(10) 'Effective' means that a valid rule has been filed as required by this Chapter. A rule which is effective is enforceable to the extent permitted by law."

Sec. 6. All agencies, as defined by G.S. 120-30.19(a)(1) and that were not subject to the provisions of G.S. 150A-59 prior to the effective date of this act, shall file in the office of the Director of Research of the Legislative Services Commission copies of all rules, as defined in G.S. 120-30.19(b)(4), that were adopted prior to October 1, 1977.

Sec. 7. G.S. 150A-58 is amended by adding a new subsection to read as follows:

"(c) 'Agency' means every agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the executive branch of State government; any provision of any other statute to the contrary notwithstanding. The provisions of this Article do not apply to agencies in the judicial branch of State government, agencies in the legislative branch of State government, counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivisions, county or city boards of education, The University of North Carolina, other local public districts, units, or bodies of any kind, or private corporations created by act of the General Assembly."

Sec. 8. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to implement the provisions of this act.

Sec. 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity will not affect other provisions or applications of the act that can be given effect without the invalid provision or application; and to this end the provisions of this act are severable.

Sec. 10. This act shall become effective on October 1, 1977, and shall expire on June 30, 1979.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 515 CHAPTER 916

AN ACT PROHIBITING DISCRIMINATION IN BUSINESS BASED UPON FOREIGN TRADE RELATIONSHIPS AND CERTAIN OTHER FACTORS.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is hereby added to the General Statutes to be designated as Chapter 75B and to read as follows:

"CHAPTER 75B.

"Discrimination in Business.

"§ 75B-1. *Definitions.*—The following words and phrases as used in this Chapter shall have the following meaning unless the context clearly requires otherwise:

(1) 'business', the manufacture, processing, sale, purchase, licensing, distribution, provision, or advertising of goods or services, or extension of credit, or issuance of letters of credit, or any other aspect of business;

(2) 'foreign government', all governments and political subdivisions and the instrumentalities thereof, excepting the government, political subdivisions, and instrumentalities of the United States and the states, commonwealths, territories and possessions of the United States, and the District of Columbia;

(3) 'foreign person', any person whose principal place of residence, business or domicile is outside the United States, or any person controlled directly or indirectly by such person or persons; provided, however, that no person shall be deemed a foreign person if after reasonable inquiry and due diligence it cannot be determined that any such person has a principal place of residence, business, or domicile outside the United States or is controlled by such person;

(4) 'foreign trade relationships', the dealing with or in any foreign country of any person, or being listed on a boycott list or compilation of unacceptable persons maintained by a foreign government, foreign person, or international organization;

(5) 'international organization', any association or organization, with the exception of labor associations, or organizations of which more than a majority of the membership consists of foreign persons or foreign governments; and

(6) 'persons', one or more of the following or their agents, employees, servants, representatives, directors, officers, partners, members, managers, superintendents, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated

organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this State.

"§ 75B-2. *Discrimination in business prohibited.*—It shall be unlawful for any person doing business in the State or for the State of North Carolina:

(1) to enter into any agreement, contract, arrangement, combination, or understanding with any foreign government, foreign person, or international organization, which requires such person or the State to refuse, fail, or cease to do business in the State with any other person who is domiciled or has a usual place of business in the State, based upon such other person's race, color, creed, religion, sex, national origin or foreign trade relationships;

(2) to execute in the State any contract with any foreign government, foreign person, or international organization which requires such person or the State to refuse, fail or cease to do business with another person who is domiciled or has a usual place of business in the State, based upon such other person's race, color, creed, religion, sex, national origin, or foreign trade relationships;

(3) to refuse, fail or cease to do business in the State with any other person who is domiciled or has a usual place of business in the State or with the State when such refusal, failure, or cessation results directly or indirectly from an agreement, contract, arrangement, combination, or understanding between the person who refuses, fails or ceases to do business and any foreign government, foreign person, or international organization, and is based upon such other person's race, color, creed, religion, sex, national origin or foreign trade relationships;

(4) to discharge or to fail, refuse or cease to hire, promote or appoint in the State any other person who is domiciled in the State to any position of employment or employment responsibility when such refusal, failure or cessation results from an agreement, contract, arrangement, combination, or understanding with any foreign government, foreign person, or international organization and is based upon such other person's race, color, creed, religion, sex, national origin, or foreign trade relationships;

(5) to wilfully and knowingly aid or abet any other person to engage in conduct which is prohibited by this Chapter.

"§ 75B-3. *Actions not prohibited.*—It shall not be unlawful under this Chapter:

(1) to engage in conduct required by or expressly authorized by acts of the United States Congress, a United States treaty, a United States regulation, or a United States executive order;

(2) to enter into any agreement with an international organization entirely composed of member governments or their contracting representatives which requires that a preference or priority be given to the citizens or products of one or more of such member governments;

(3) to enter into any agreement with respect to the insuring, handling, or shipping of goods, or choice of carrier while in international transit.

"§ 75B-4. *Enforcement.*—The Attorney General may institute a civil action to prevent or restrain violations of G.S. 75B-2.

A person injured by a violation of G.S. 75B-2 may maintain an action for damages or for an injunction or both against any person who has committed the violation.

In a proceeding under this section, the court shall determine whether a violation has been committed and enter any judgment or decree necessary to

remove the effects of any violation it finds and to prevent continuation or renewal of the violation in the future.

If an application for an injunction is granted, after due notice to all parties, a hearing thereon, and as a disposition on the merits of such application, the complainant may be awarded costs and reasonable attorney's fees.

In an action for damages, if there is a wilful violation of G.S. 75B-2 the person injured may be awarded up to three times the amount of actual damages which results from the violation, with costs and reasonable attorney's fees.

"§ 75B-5. *Remedies cumulative.*—The remedies provided in this Chapter are cumulative.

"§ 75B-6. *Contracts void.*—Any provision of any contract or other document or other agreement which violates G.S. 75B-2 or which, if complied with by the person intended to be bound by the provision, would cause a violation of G.S. 75B-2 shall be null and void as being against the public policy of the State.

"§ 75B-7. *Chapter not exclusive.*—This Chapter shall not be deemed to supersede, restrict or otherwise limit the continuing applicability of the antitrust or anti-discrimination laws of the State."

Sec. 2. G.S. 1-52, as the same appears in the 1975 Cumulative Supplement to Volume 1A, is hereby amended by adding a new subsection as follows:

"(14) An action under Chapter 75B of the General Statutes, the action in regard to a continuing violation accrues at the time of the latest violation."

Sec. 3. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 558 CHAPTER 917

AN ACT RELATING TO THE CHARGES OR INTEREST WHICH MAY BE CHARGED WITH RESPECT TO OPEN-END ACCOUNTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-11, as the same appears in the 1975 Cumulative Supplement to Volume 1D of the General Statutes, is hereby rewritten as follows:

"§ 24-11. *Certain revolving credit charges.*—(a) On the extension of credit under an open-end credit or similar plan (including revolving credit card plans, and revolving charge accounts, but excluding any loan made directly by a lender under a check loan, check credit or other such plan) under which no service charge shall be imposed upon the consumer or debtor if the account is paid in full within twenty-five days from the billing date, there may be charged and collected interest, finance charges or other fees at a rate in the aggregate not to exceed one and one-half percent (1 1/2%) per month computed on the unpaid balance of the previous month or the average daily balance outstanding during the billing period. No person, firm or corporation may charge a discount or fee in excess of six percent (6%) of the principal amount of the accounts acquired from or through any vendors or others providing services who participate in such plan.

(b) On revolving credit loans (including check loans, check credit or other revolving credit plans whereby a bank, banking institution or other lending agency makes direct loans to a borrower), if agreed to in writing by the

borrower, such lender may collect interest and service charges by application of a monthly periodic rate computed on the average daily balance outstanding during the billing period, such rate not to exceed one and one-quarter percent (1 1/4%) on such balance up to and including five thousand dollars ($5,000), and such rate not to exceed one percent (1%) on such balance in excess of five thousand dollars ($5,000).

(c) Any extension of credit under an open-end or similar plan under which there is charged a monthly periodic rate greater than one and one-quarter percent (1 1/4%) may not be secured by real or personal property or any other thing of value, provided, that this subsection shall not apply to consumer credit sales regulated by Chapter 25A, the Retail Installment Sales Act; provided further, that in any action initiated for the possession of property in which a security interest has been taken, a judgement for the possession thereof shall be restricted to commercial units (as defined in G.S. 25-2-105(6)) for which the cash price was one hundred dollars ($100.00) or more.

(d) The term 'billing date' shall mean any date selected by the creditor but shall not be earlier than the date any bill for the balance of the account is mailed to the debtor."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 596 CHAPTER 918

AN ACT TO EXEMPT FROM INCLUSION IN THE GROSS ESTATE FOR INHERITANCE TAX PURPOSES THE FIRST THREE THOUSAND DOLLARS OF GIFTS MADE WITHIN THREE YEARS OF THE DONOR'S DEATH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-2(3) as the same appears in the 1972 Replacement Volume 2D of the General Statutes is hereby amended by rewriting in its entirety the last sentence thereof to read as follows:

"The aggregate value exceeding three thousand dollars ($3,000) of transfers to any one donee within a tax year by deed, grant, bargain, sale, gift, or combination thereof, made within three years prior to the death of the grantor, vendor, or donor, without an adequate valuable consideration, shall be presumed, subject to rebuttal, to have been made in contemplation of death within the meaning of this section; the first three thousand dollars ($3,000) in value shall be deemed not made in contemplation of death."

Sec. 2. This act shall become effective with respect to decedents dying on and after July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 660

CHAPTER 919

AN ACT TO PROHIBIT THE UNAUTHORIZED USE OF A MOTOR-PROPELLED CONVEYANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-72.2, as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is hereby rewritten to read as follows:

"§ 14-72.2. *Unauthorized use of a motor-propelled conveyance.*—(a) A person is guilty of an offense under this section if, without the express or implied consent of the owner or person in lawful possession, he takes or operates an aircraft, motorboat, motor vehicle, or other motor-propelled conveyance of another.

(b) Unauthorized use of an aircraft is a felony punishable by a fine, imprisonment not to exceed five years, or both, in the discretion of the court. All other unauthorized use of a motor-propelled conveyance is a misdemeanor punishable by a fine, imprisonment not to exceed two years, or both, in the discretion of the court.

(c) Unauthorized use of a motor-propelled conveyance shall be a lesser-included offense of unauthorized use of an aircraft.

(d) As used in this section, 'owner' means any person with a property interest in the motor-propelled conveyance."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 687

CHAPTER 920

AN ACT TO AMEND G.S. 62-268 TO PROVIDE THAT MOTOR CARRIERS MAY SATISFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THE UTILITIES COMMISSION THROUGH ONE OR MORE INSURERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-268 as the same appears in Volume 2B of the General Statutes of North Carolina is hereby amended by the addition of the following sentences at the end of this section:

"Notwithstanding any rule or regulation to the contrary, the commission shall not require that any insurance procured and filed be provided in any single policy of insurance or through a single insurer, if the insurers involved are otherwise qualified. A motor carrier may satisfy the requirements of the commission by procuring insurance with coverage and limits of liability required by the commission in one or more policies of insurance issued by one or more insurers."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 689

CHAPTER 921

AN ACT TO AMEND THE PROVISIONS OF CHAPTER 25A RELATING TO PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES.

The General Assembly of North Carolina enacts:

Section 1. For the purpose of conforming the provisions of G.S. 25A-25 to the requirements imposed on consumer credit sales by the Federal Trade Commission Rule on Preservation of Consumers' Claims and Defenses, 16 CFR 433, and for the purpose of eliminating language rendered surplusage by said rule, G.S. 25A-25 is amended to read as follows:

"§ 25A-25. *Preservation of consumers' claims and defenses.*—(a) In a consumer credit sale, a buyer may assert against the seller, assignee of the seller, or other holder of the instrument or instruments of indebtedness, any claims or defenses available against the original seller, and the buyer may not waive the right to assert these claims or defenses in connection with a consumer credit sales transaction. Affirmative recovery by the buyer on a claim asserted against an assignee of the seller or other holder of the instrument of indebtedness shall not exceed amounts paid by the buyer under the contract.

(b) Every consumer credit sale contract shall contain the following provision in at least ten-point boldface type:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

(c) Compliance with the requirements of the Federal Trade Commission rule on preservation of consumer claims and defenses is considered full compliance with this act."

Sec. 2. This act shall become effective June 30, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 835

CHAPTER 922

AN ACT TO AMEND ARTICLE 8, CHAPTER 90 OF THE GENERAL STATUTES RELATING TO CHIROPRACTORS TO GRANT AUTHORITY FOR THE INCREASE OF FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-149 is hereby rewritten to read as follows:

"§ 90-149. *Application fee.*—Each applicant shall pay the secretary of said board a fee as prescribed and set by the board which fee shall not be more than one hundred dollars ($100.00)."

Sec. 2. G.S. 90-155 is hereby amended by striking out the words "of twenty-five dollars ($25.00)" immediately following the word "fee" and immediately preceding the word "and" on line five of the first paragraph and by substituting in lieu thereof the words "as prescribed and set by the said board which fee shall not be more than one hundred dollars ($100.00)".

Sec. 3. G.S. 90-155 is hereby amended by striking out the words "payment of twenty-five dollars ($25.00)" on line five of the second paragraph and by substituting in lieu thereof the words "payment of the renewal fee and an additional twenty-five dollars ($25.00) reinstatement fee".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 903 CHAPTER 923

AN ACT TO AMEND G.S. 143B-371 AND G.S. 143B-137 CONCERNING THE POLICY OF ADDRESSING PROBLEMS THROUGH PREVENTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-371 is amended by inserting a new subdivision (4a) to read as follows:

"(4a) Establish priorities in order to pursue a comprehensive plan to avert the exorbitant social and economic costs of diseases, deformities, and other human miseries. These costs can be drastically reduced by the adoption of a policy of prevention designed to ease the emotional and financial burdens resulting from fragmented and piecemeal efforts to deal with problems after they arise, as well as to ensure a higher quality of life for the citizens of this State."

Sec. 2. G.S. 143B-137 is hereby amended at the end thereof by adding a new sentence to read as follows:

"Whenever possible the department shall emphasize preventive measures to avoid or to reduce the need for costly emergency treatments that often result from lack of forethought. Therefore, it shall be the policy of this department to establish priorities to eliminate those excessive expenses incurred by the State for lack of adequate funding or careful planning of preventive measures."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 905 CHAPTER 924

AN ACT TO AMEND G.S. 157-3(12) RELATIVE TO THE DEFINITION OF HOUSING PROJECT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-3(12) is amended by adding a subdivision c to read as follows:

"c To provide safe and sanitary housing for persons of low income through payment of rent subsidies from any source."

Sec. 2. This act shall become effective August 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 917 **CHAPTER 925**

AN ACT TO MAKE TECHNICAL AMENDMENTS TO CHAPTER 450 OF THE 1977 SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 450 of the 1977 Session Laws is hereby rewritten to read as follows:

"Section 1. G.S. 148-30 as the same appears in the 1974 Replacement Volume 3C of the General Statutes is hereby amended by rewriting the last sentence to read as follows: 'No male misdemeanant offender shall be so assigned whose total term of imprisonment is 180 days or less.'"

Sec. 2. G.S. 148-32.1.(b), as the same appears in Section 3 of Chapter 450 of the 1977 Session Laws is hereby amended in the second sentence by deleting "less than 180 days" and inserting in lieu thereof "180 days or less".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 394 **CHAPTER 926**

AN ACT TO AMEND THE FIREMEN'S PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 118-25, as the same appears in Volume 3B of the General Statutes, is hereby amended as follows:

(1) By inserting a period after the words and figures "fifty dollars ($50.00) per month" on line 7, and by deleting the remainder of the paragraph, including the chart, lines 7 through 15, inserting in lieu thereof the following sentence:

"Any retired fireman who is receiving a pension in an amount of less than fifty dollars ($50.00) per month prior to July 1, 1977, shall receive a pension in an amount of fifty dollars ($50.00) per month beginning July 1, 1977."

(2) By inserting a period after the words and figures "fifty dollars ($50.00) per month" on line 14 of the second paragraph, deleting the remainder of the sentence.

(3) By adding a new paragraph after the last sentence of the second paragraph, to read as follows:

"Any member who is totally and permanently disabled while in the discharge of his official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of his official duties and who leaves the fire service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of fifty dollars ($50.00) per month beginning the first month after his fifty-fifth birthday. All disabilities are subject to the approval of the board of trustees who may appoint physicians to examine and/or evaluate the disabled member prior to his approval annually and at their discretion. Any disabled member shall not be required to make a monthly payment of five dollars ($5.00) as required by G.S. 118-24."

Sec. 2. G.S. 118-26(1) is hereby amended by deleting the word and figures "60 years" from lines 1 and 7, inserting in lieu thereof the word and figures "55 years".

Sec. 3. G.S. 118-31 is hereby rewritten to read as follows:

"§ 118-31. *Effect of member being six months delinquent in making monthly payments.*—Any member who becomes six months delinquent in making monthly payments as required by G.S. 118-24 of this Article by the tenth of the month with respect to which said payment shall be due shall forfeit his membership in the fund."

Sec. 4. Section 50.72 and Section 50.73 of Senate Bill 16/ House Bill 51 entitled "Session 1977 Operation Budget" are hereby repealed.

Sec. 5. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 824 CHAPTER 927

AN ACT TO PROVIDE FOR A SYSTEM OF EDUCATIONAL OPPORTUNITIES FOR ALL CHILDREN REQUIRING SPECIAL EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the General Statutes is amended by a new Subchapter XIII, Article 45 et seq., to read as follows:

"ARTICLE 45.

"State Policy.

"§ 115-360. *Policy.*—The policy of the State is to provide a free appropriate publicly supported education to every child with special needs. The purpose of this act is to (1) provide for a system of special educational opportunities for all children requiring special education (hereinafter called 'children with special needs'); (2) provide a system for identifying and evaluating the educational needs of all children with special needs; (3) require evaluation of the needs of such children and the adequacy of special education programs before placing children in the programs; (4) require periodic evaluation of the benefits of the programs to the children and of the nature of the children's needs after placement; (5) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (6) to assure that the rights of children with special needs and their parents or guardians are protected; (7) insure that there be no inadequacies, inequities, and discrimination with respect to children with special needs; and (8) bring State law, regulations, and practice into conformity with relevant federal law.

"§ 115-361. *Children can learn.*—The General Assembly finds that all children with special needs are capable of benefitting from appropriate programs of special education and training and that they have the ability to be educated and trained and to learn and develop. Accordingly, the State has a duty to provide them with a free appropriate public education.

"§ 115-362. *Definition of special education and related services.*—The term 'special education' means specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a special needs child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term also includes speech pathology, audiology, occupational and physical therapy. The term 'related services' means transportation and such developmental, corrective and other supportive services as are required to assist a special needs child to benefit from special education and includes speech pathology and audiology,

psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes only. The term also includes school social work services, parent counseling and training, providing parents with information about child development and assisting parents in understanding the special needs of their child. Other similar services, materials and equipment may be provided as approved by regulations adopted by the State Board of Education ("the Board").

"§ 115-363. *Definition of children with special needs.*—The term 'children with special needs' includes, without limitation, all children between the ages of five and 18 who because of permanent or temporary mental, physical or emotional handicaps need special education, are unable to have all their needs met in a regular class without special education or related services, or are unable to be adequately educated in the public schools. It includes those who are mentally retarded, epileptic, learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired, blind or visually-impaired, genetically impaired, and gifted and talented.

"§ 115-364. *Services mandatory; single-agency responsibility; State and local plans; census and registration.*—(a) The Board shall cause to be provided by all city and county school administrative units and by all other State and local governmental agencies providing special education services or having children with special needs in their care, custody, management, jurisdiction, control, or programs, special education and related services appropriate to all children with special needs. In this regard, all city and county school administrative units and all other State and local governmental agencies providing special education and related services shall explore available local resources and determine whether the services are currently being offered by an existing public or private agency.

When a specified special education or related service is being offered by a local public or private resource, any unit or agency described above shall negotiate for the purchase of that service or shall present full consideration of alternatives and its recommendations to the Board. In this regard, a new or additional program for special education or related services shall be developed with the approval of the Board only when (a) that service is not being provided by existing public or private resources or (b) the service cannot be purchased from existing providers. Further, the Board shall support and encourage joint and collaborative special education planning and programming at local levels to include city and county administrative units and the programs and agencies of the Departments of Human Resources and Correction.

The jurisdiction of the Board with respect to the design and content of special education programs or related services for children with special needs extends to and over the Department of Human Resources and the Department of Correction.

All provisions of this Subchapter that are specifically applicable to city and county school administrative units also are applicable to the Department of Human Resources and the Department of Correction and their divisions and agencies; all duties, responsibilities, rights and privileges specifically imposed on or granted to city and county school administrative units by this Subchapter also are imposed on or granted to the Department of Human Resources and the Department of Correction and their divisions and agencies. However, with

respect to children with special needs who are residents or patients of any State-operated or State-supported residential treatment facility, including without limitation, a school for the deaf, school for the blind, mental hospital or center, mental retardation center, or in a facility operated by the Department of Correction or any of its divisions and agencies, the Board shall have the power to contract with the Department of Human Resources and the Department of Correction for the provision of special education and related services and the power to review, revise and approve said departments' plans for special education and related services to those residents.

The Departments of Human Resources and Correction shall submit to the Board their plans for the education of children with special needs in their care, custody, or control. The Board shall have general supervision and shall set standards, by rule or regulation, for the programs of special education to be administered by it, by local educational agencies, and by the Departments of Human Resources and Correction. The Board may grant specific exemptions for programs administered by the Department of Human Resources or the Department of Correction when compliance by them with the Board's standards would, in the Board's judgment, impose undue hardship on such department and when other procedural due process requirements, substantially equivalent to those of G.S. 115-179.1, are assured in programs of special education and related services furnished to children with special needs served by such department. Further, the Board shall recognize that inpatient and residential special education programs within the Departments of Human Resources and Correction may require additional program resources than those necessary for optimal operation of such programs in city and county administrative units.

Every State and local department, division, unit or agency covered by this section is hereinafter referred to as a 'local educational agency' unless the text of this act otherwise provides.

(b) The Board shall make and keep current a plan for the implementation of the policy set forth in G.S. 115-360. The plan shall include:

(1) A census of the children with special needs in the State, as required by G.S. 115-364(j);

(2) A procedure for diagnosis and evaluation of each such child;

(3) An inventory of the personnel and facilities available to provide special education for such children;

(4) An analysis of the present distribution of responsibility for special education between State and local educational agencies, together with recommendations for any necessary or desirable changes in the distribution of responsibilities;

(5) Standards for the education of children with special needs;

(6) Programs and procedures for the development and implementation of a comprehensive system of personnel development; and

(7) Any additional matters, including recommendations for amendment of laws, changes in administrative regulations, rules and practices and patterns of special organization, and changes in levels and patterns of education financial support.

(c) The Board shall present the plan required by subsection (b) to the Governor and the General Assembly and make it available for public comment pursuant to subsection (l) no later than January 15, 1978. Thereafter, the Board

shall annually submit amendments to or revisions of the plan to the Governor and General Assembly and make it available for public comment pursuant to subsection (l) and for public distribution no less than 30 days before January 15 of each year. All such submissions, except for the initial submission of the plan, shall set forth in detail the progress made in the implementation of the plan.

(d) The Board shall adopt as soon as practicable after the effective date of this act (but not in any event later than 120 days after the effective date) rules or regulations covering:

(1) The qualifications of and standards for certification of teachers, aides, speech clinicians, school psychologists, and others involved in the education and training of children with special needs;

(2) Minimum standards for the individualized education program for each child with special needs who receives special education or related services; and

(3) Such other rules or regulations as may be necessary or appropriate for carrying out the purposes of this act.

Representatives from the Departments of Human Resources and Correction shall be involved in the development of the standards outlined under this subsection.

(e) On or before October 15, 1977, and annually thereafter, each local educational agency shall report to the Board the extent to which it is then providing special education for children with special needs. The annual report also shall detail the means by which the local educational agency proposes to secure full compliance with the policy of this act, including the following:

(1) A statement of the extent to which the required education and services will be provided directly by the agency;

(2) A statement of the extent to which standards in force pursuant to G.S. 115-364(b)(5) and (d)(2) are being met by the agency; and

(3) The means by which the agency will contract to provide, at levels meeting standards in force pursuant to G.S. 115-364(b)(5) and (d)(2), all special education and related services not provided directly by it or by the State.

(f) After submitting the report required by subsection (e), the local educational agency also shall submit such supplemental and additional reports as the Board may require to keep the local educational agency's plan current.

(g) By rule or regulation, the Board shall prescribe the due dates (not later than October 15 of each year) and all other necessary or appropriate matters relating to such annual and supplemental and additional reports.

(h) The annual report shall be a two-year plan for providing appropriate special education and related services to children with special needs. The agency shall submit the plan to the Board for its review, approval, modification, or disapproval. Unless thereafter modified with approval of the Board, the plan shall be adhered to by the local educational agency. The procedure for approving, disapproving, establishing, and enforcing the plan shall be the same as that set forth for the annual plan. The long-range plan shall include such provisions as may be appropriate for the following, without limitation:

(1) Establishment of classes, other programs of instruction, curricula, facilities, equipment, and special services for children with special needs; and

(2) Utilization and professional development of teachers and other personnel working with children with special needs.

(i) Each local educational agency shall provide free appropriate special education and related services in accordance with the provisions of this act for all children with special needs who are residents of, or whose parents or guardians are residents of, the agency's district, beginning with children aged five. No matriculation or tuition fees or other fees or charges shall be required or asked of children with special needs or their parents or guardians except such fees or charges as are required uniformly of all public school pupils. The provision of free appropriate special education within the facilities of the Department of Human Resources shall not prevent that department from charging for other services or treatment.

(j) The Board shall require an annual census of children with special needs, subdivided for 'identified' and 'suspected' children with special needs, to be taken in each school year, beginning with the school year 1977-1978. With respect to the census for the school year 1977-1978, the census may be that taken pursuant to Chapter 1293, 1973 Session Laws (Second Session, 1974), as amended. Thereafter, the census shall be conducted annually and shall be completed not later than October 15, and shall be submitted to the Governor and General Assembly and be made available to the public no later than January 15 annually.

In taking the census, the Board shall require the cooperation, participation, and assistance of all local educational agencies and all other State and local governmental departments and agencies providing or required to provide special education services to children with special needs, and those departments and agencies shall cooperate and participate with and assist the Board in the conduct of the census.

The census shall include the number of children identified and suspected with special needs, their age, the nature of their disability, their county or city of residence, their school administrative unit residence, whether they are being provided special educational or related services and if so by what department or agency, whether they are not being provided special education or related services, the identity of each department or agency having children with special needs in its care, custody, management, jurisdiction, control, or programs, the number of children with special needs being served by each department or agency, and such other information or data as the Board shall require. The census shall be of children with special needs between the ages of three through 21, each inclusive.

(k) The department shall monitor the effectiveness of individualized education programs in meeting the educational needs of children with special needs.

(l) The Board shall provide for procedures assuring that (i) in carrying out the requirements of this act procedures are established for consultation with individuals involved in or concerned with the education of children with special needs, including parents or guardians of such children, and (ii) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to the adoption of the policies, procedures, and rules or regulations required by this act.

(m) Children with special needs shall be educated in the least restrictive appropriate setting, as defined by the State Board of Education.

"ARTICLE 46.

"Nondiscrimination in Education.

"§ 115-370. *Compulsory attendance.*—No child with special needs between the ages specified by G.S. 115-363 shall be denied a free appropriate public education or be prevented from attending the public schools of the local educational agency in which he or his parents or legal guardian(s) reside or from which he receives services or from attending any other public program of free appropriate public education because he is a child with special needs. If it appears that a child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Human Resources, the local educational agency shall confer with the appropriate Department of Human Resources staff for their participation and determination of the appropriateness of placement in said program and development of the child's individualized education program. The individualized education program may then be challenged under the due process provisions of G.S. 115-179.1. Every child with special needs shall be entitled to attend such nonresidential schools or programs and receive from them free appropriate public education.

"§ 115-371. *Disciplinary suspensions.*—If a local educational agency suspends or expels a child with special needs from a public school program for a period of more than 10 days or for consecutive periods that total more than 10 days because he is or poses a risk of injury to himself or others or because he is or is threatening to substantially disrupt the education of others, the agency, notwithstanding the suspension or expulsion, shall continue to provide the child with essential special education or related services during the period of suspension or expulsion if that period is one in which the child would be receiving special education or training in the unit but for the suspension or expulsion. The parents may appeal, under G.S. 115-179.1, any suspension of more than 10 consecutive days. These limitations on suspension and expulsion shall not interfere with the authority of the Department of Human Resources to release or discharge patients and residents from its programs when the primary purpose of admission has been achieved or when it is no longer feasible or advisable to continue the patient or resident in residence.

"§ 115-372. *Diagnosis and evaluation; individualized education program.*—(a) All testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with special needs will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

Before taking any action described in subsection (b), below, each local educational agency shall cause a multi-disciplinary diagnosis and evaluation to be made of the child. The local educational agency shall use the diagnosis and evaluation to determine if the child has special needs, diagnose and evaluate those needs, propose special education programs to meet those needs, and provide or arrange to provide such programs. A multi-disciplinary diagnosis and evaluation is one which includes, without limitation, medical (if necessary), psychological (if necessary) and educational assessments and recommendations;

such an evaluation may include any other assessments as the Board may, by rule or regulation, require.

(b) An initial multi-disciplinary diagnosis and evaluation based on rules developed by the Board shall be made before any such child is placed in a special education program, removed from such a program and placed in a regular school program, transferred from one type of special education program to another, removed from a school program for placement in a nonschool program, or otherwise tracked, classified, or treated as a child with special needs.

(c) Referral of any child shall be in writing, signed by the person requesting diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or delivered to the child's teacher, the principal of the school to which the child is, has been or will be assigned, and the superintendent or other chief executive officer of the affected local educational agency.

Within 30 days of such referral, the local educational agency shall send a written notice to the parents or guardian describing the evaluation procedure to be followed and requesting consent for the evaluation. If the parents or guardian consent, the diagnosis and evaluation may be undertaken; if they do not, the local educational agency may obtain a due process hearing on the failure of the parent to consent under Section 115-179.1.

The local educational agency shall provide or cause to be provided a diagnosis and evaluation appropriate to the needs of the child within 30 calendar days after sending the notice unless the parents or guardian have objected to such evaluation. At the end of such diagnosis and evaluation, the local educational agency shall offer a proposal for an educational program appropriate to the child's needs. If this proposal calls for a special educational program, it shall set forth the specific benefits expected from such a program, a method for monitoring the benefits, and a statement regarding conditions which will be considered indicative of the child's readiness for participation in regular classes.

Within 12 months after placement in a special education program, and at least annually thereafter, those people responsible for developing the child's individualized education program shall evaluate the child's progress and, on the basis of previously stated expected benefits, decide whether to continue or discontinue the placement or program. If the reevaluation indicates that the placement or program does not benefit the child, the appropriate reassignment or alteration in the prescribed program shall be recommended to the parents or guardian and their consent requested.

The local educational agency shall keep a complete written record of all diagnostic and evaluation procedures attempted, their results, the conclusions reached, and the proposals made.

(d) The local educational agency shall furnish the results, findings, and proposals based on the diagnosis and evaluation to the parents or guardian in writing in the parents' or guardian's native language or by their dominant mode of communication within 15 calendar days after the diagnosis and evaluation is completed. Within 20 days after the diagnosis and evaluation is completed, it shall cause a conference to be scheduled between one of its staff competent to interpret the report of the diagnosis and evaluation and the child's parents or guardian. The conference shall be held no later than 30 calendar days after the date it is scheduled. At the conference, the report shall be explained to the

parents or guardian. The parents or guardian may waive the interpretive conference.

(e) Each local educational agency shall make and keep current a list of all children evaluated and diagnosed pursuant to this section who are found to have special needs and of all children who are receiving home, hospital, institutional or other special education services, including those being educated within the regular classroom setting or in other special education programs.

(f) Each local educational agency shall prepare an individualized education program for each child found to be a child with special needs. The individualized educational program shall be developed in conformity with P.L. 94-142 and the implementing regulations issued by the Office of Education, Department of Health, Education, and Welfare and shall be implemented in conformity with the timelines set by that department. The term 'individualized educational program' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized education program of each child with special needs at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of Human Resources, the individualized education program shall be planned in collaboration with those other individuals responsible for the design of the total treatment and/or habilitation plan; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent.

"§ 115-373. *Records; privacy and expunction.*—(a) No local educational agency may release to any persons other than the eligible student, his parents or guardian or any surrogate parent any records, data or information on any child with special needs except (1) as permitted by the prior written consent of the student, his parents or guardian or surrogate parent (2) as required or permitted by federal law, (3) school officials within the local education agency who have legitimate educational interests, (4) school officials of other local education agencies in which the student intends to enroll, (5) certain authorized representatives of the State and federal government who are determining eligibility of the child for aid, as provided under P.L. 93-380 or other federal law.

(b) The eligible student, his parents or guardian or surrogate parent shall have the right to read, inspect and copy all and any records, data and information maintained by a local educational agency with respect to the student, and, upon their request, shall be entitled to have those records, data and information fully explained, interpreted and analyzed for them by the staff of the agency. The parent or guardian or surrogate parent may demand that his request must be honored within not more than 45 days after it is made.

(c) The student, his parents or guardians or surrogate parent shall have the right to add to the records, data and information written explanations or clarifications thereof, and to cause the expunction of incorrect, outdated, misleading or irrelevant entries. If a local educational agency refuses to expunge

incorrect, outdated, misleading or irrelevant entries after having been asked to do so by the parent, such person may obtain a due process hearing, under G.S. 115-179.1, on the agency's refusal, and must request the hearing within 30 days after the agency's refusal.

"§ 115-374. *Private school placements.*—The Board shall (i) adopt policies and procedures to assure that handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program) at no cost to their parents or guardian, provided such children have been placed in or referred to such schools or facilities by the Board or by the appropriate local educational agency as the means of carrying out the requirement of this act or any other applicable law requiring the provision of special education and related services to all handicapped children within the State, and (ii) in all such instances the Board shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies. The State and local educational agencies shall be excused from payment of the costs of special education and related services in a private school if a child is placed in that school by his parents or guardian against the advice of the State or a local educational agency.

"ARTICLE 47.

"State and Local Relationships.

"§ 115-380. *Interlocal cooperation.*—(a) The Board, any two or more local educational agencies and any such agency and any State department, agency, or division having responsibility for the education, treatment or habilitation of children with special needs are authorized to enter into interlocal cooperation undertakings pursuant to the provisions of G.S. 160A, Article 20, Part 1, or into undertakings with a State agency such as the Departments of Public Instruction, Human Resources, or Correction, or their divisions, agencies, or units, for the purpose of providing for the special education and related services, treatment or habilitation of such children within the jurisdiction of the agency or unit, and shall do so when it itself is unable to provide the appropriate public special education or related services for such children. In entering into such undertakings, the local agency and State department, agency, or division shall also contract to (1) provide the special education or related services that are most educationally appropriate to the children with special needs for whose benefit the undertaking is made, and (2) provide such services by or in the local agency unit or State department, agency, or division located in the place most convenient to such children.

(b) Local educational agencies may establish special education and related programs for children with special needs aged birth through four and 19 through 21 inclusive.

"§ 115-381. *Contracts with private service-providers.*—State departments, agencies and divisions and local educational agencies furnishing special education and related services to children with special needs may contract with private special education facilities or service providers to furnish such services as the public providers are unable to furnish. No contract between any public and private service provider shall be effective until it has received the prior written approval of the Board. The Board shall not withhold its approval of the

contract unless the private facilities and providers do not meet the Board's standards established pursuant to G.S. 115-364(a), (b)(5), and (d)(2).

"ARTICLE 48.

"Employment of the Handicapped.

"§ 115-390. *Employment of the handicapped.*—The Board and each local educational agency shall make positive efforts to employ and advance in employment qualified handicapped individuals.

"ARTICLE 49.

"Rules and Regulations.

"§ 115-400. *Board rules and regulations.*—The Board shall adopt rules and regulations for the administration of this act. The Board shall provide technical assistance to the various concerned agencies at their request.

"ARTICLE 50.

"Non-Reduction Provisions.

"§ 115-410. *Non-reduction.*—Notwithstanding any of the other provisions of this act, it is the intent of the General Assembly that funds appropriated by it for the operation of programs of special education and related services by city and county school administrative units not be reduced; rather, that adequate funding be made available to meet the special educational and related services needs of children with special needs, without regard to which State or local department, agency, or unit has the child in its care, custody, control, or program.

"ARTICLE 51.

"Budget Analysis and Departmental Funding.

"§ 115-420. *Budget analysis.*—The Division of Fiscal Research shall conduct an annual budget analysis of the budgets of the Departments of Human Resources and Correction to determine what funds are expended by those departments for programs of special education and related services for children with special needs, aged birth through 21, and shall submit a report of its analysis to the General Assembly, the Governor, and the State Board of Education and the Departments of Human Resources and Correction no later than October 1, of each year, beginning with the year 1977.

"§ 115-421. *Departmental requests.*—All budget requests for funding of new or existing or for the expansion of existing programs of special education and related services for children with special needs, aged birth through 21, to be furnished or provided by the Departments of Human Resources or Correction shall be submitted by those departments to the Board for review and comment prior to presentation by the respective department to the Advisory Budget Committee, effective for the fiscal year beginning July 1, 1978, and annually thereafter.

"§ 115-422. *Allocation of federal funds.*—At such time as any federal monies for the special education and related services for children with special needs are made available, these funds shall be allocated according to a formula designed by the Board not inconsistent with federal laws and regulations. Such formula shall insure equitable distribution of resources based upon the number of children with special needs served by the respective agencies, and shall be implemented as funds are made available from federal and State appropriations."

Sec. 2. G.S. 115-1.1(c), G.S. 115-1.2, Section 7 of Chapter 1293, 1973 Session Laws, Second Session, 1974, as amended, and G.S. 115-315.1 through G.S. 115-315.6 are repealed.

Sec. 3. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1001 CHAPTER 928

AN ACT TO AMEND G.S. 138-6(a)(3) CONCERNING TRAVEL ALLOWANCES FOR STATE OFFICERS AND EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 138-6(a)(3) is hereby rewritten to read as follows:

"(3) In lieu of actual expenses incurred for subsistence, payment of twenty-three dollars ($23.00) per day when traveling in-state or thirty-five dollars ($35.00) per day when traveling out-of-state. When travel involves less than a full day (24-hour period), a reasonable prorated amount shall be paid in accordance with regulations and criteria which shall be promulgated and published by the Director of the Budget. This shall not apply to those employees who are employed by the North Carolina State Burial Association Commission."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1350 CHAPTER 929

AN ACT TO MAKE THE CHILD DAY-CARE LICENSING COMMISSION SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-93(d), G.S. 110-95, G.S. 110-96 and G.S. 110-97 are hereby repealed.

Sec. 2. G.S. 110-94 is rewritten to read as follows:

"§ 110-94. *Administrative Procedure Act.*—The provisions of General Statutes Chapter 150A known as the Administrative Procedure Act shall be applicable to the Child Day-Care Licensing Commission."

Sec. 3. G.S. 110-104 as the same appears in Section 5 of Chapter 4 of the 1977 Session Laws is amended by deleting the period after the word "violated" at the end of Section 5 and adding the following: "or when a day-care facility is operating without a license".

Sec. 4. This act shall become effective September 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 55

CHAPTER 930

AN ACT TO AMEND CHAPTER 143 OF THE GENERAL STATUTES TO PREVENT THE IMPROPER EXPENDITURE OR TRANSFER OF FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-32 is hereby amended by designating the present section as subsection (a), and by adding a new subsection (b) to read as follows:

"(b) Any member or members of any board of trustees, board of directors, or other controlling body governing any of the institutions of the State, or any officer, employee of, or person holding any position with any of the institutions of the State, or other State agency as herein defined, who willfully acts to divert, use, or expend any funds appropriated for the use of said institution or agency, in a manner designed to circumvent the provisions of this act, including normal reversions of State funds, by failing to properly receive or deposit funds, or by the improper expenditure or transfer of funds for any purpose other than that for which the funds were appropriated and budgeted, shall be guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court. All offenses against this section shall be held to have been committed in the County of Wake and shall be tried and disposed of in the General Court of Justice for Wake County. If such offender be not an officer elected by vote of the people, conviction of such offense shall be sufficient cause for removal from office or dismissal from employment by the Governor upon 30 days' notice in writing to such offender."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 59

CHAPTER 931

AN ACT TO AMEND CHAPTER 766 OF THE 1973 SESSION LAWS (PREVIOUSLY AMENDED BY CHAPTER 903 OF THE 1975 SESSION LAWS) TO EXTEND THE APPLICATION OF THE LAW ENFORCEMENT OFFICERS' MINIMUM SALARY ACT INCREASING MINIMUM SALARY LEVELS AND ESTABLISHING REQUIRED FUNDING PERCENTAGES BY PARTICIPATING AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 766 of the 1973 Session Laws is hereby amended in Section 1 by deleting the second sentence and inserting in lieu thereof a new sentence to read as follows:

"The purpose of this Chapter is to provide a means for supplementing the salaries of sworn law enforcement officers employed full time by local and county governmental law enforcement agencies in order that such officers receive salaries at least equal to the minimum salary levels set out herein until June 30, 1982, the supplement to be the difference between the individual gross salaries of such law enforcement officers as of July 1, 1977, and the minimum salary levels as set out in this act."

Sec. 2. Chapter 766 of the 1973 Session Laws is hereby amended in Section 2 by the deletion of subsections (2) and (4) and by inserting new subsections (2) and (4) to read as follows:

"(2) 'Department head' means the sheriff, chief or other top administrative official of a sheriff's department, county rural police agency or a municipal police department who is responsible for the prevention and detection of crime or the enforcement of the criminal laws of this State.

(4) 'Law enforcement officer' means any full-time employee of a constitutional or legislatively authorized and duly established county sheriff's department, county rural police agency or municipal police department who is actively serving in a position with duty assignment and responsibility for prevention and detection of crime or the general enforcement of the criminal laws of this State, and who possesses the full and unrestricted power of arrest within the agency jurisdiction by virtue of an oath administered under the authority of the State."

Sec. 3. Chapter 766 of the 1973 Session Laws is hereby amended in Section 3, subsections (1), (2), (3) and (4) with deletions from and insertions to the enumerated subsections as follows:

a. Subsection (1) by deleting "seven thousand five hundred dollars ($7,500)" and inserting in lieu thereof "eight thousand eight hundred dollars ($8,800)".

b. Subsection (2) by deleting "nine thousand five hundred dollars ($9,500)" and inserting "eleven thousand dollars ($11,000)".

c. Subsection (3) by deleting "twelve thousand dollars ($12,000)" and inserting "fourteen thousand dollars ($14,000)".

d. Subsection (4) by deleting "fourteen thousand dollars ($14,000)" and inserting "sixteen thousand dollars ($16,000)".

Sec. 4. Chapter 766 of the 1973 Session Laws is hereby amended in Section 4, subsections (1), (2), (3) and (4) with deletions from and insertions to the enumerated subsections as follows:

a. Subsection (1) by deleting "six thousand dollars ($6,000)" and inserting "seven thousand six hundred dollars ($7,600)".

b. Subsection (2) by deleting "seven thousand five hundred dollars ($7,500)" and inserting "eight thousand eight hundred dollars ($8,800)".

c. Subsection (3) by deleting "nine thousand five hundred dollars ($9,500)" and inserting "eleven thousand dollars ($11,000)".

d. Subsection (4) by deleting "twelve thousand dollars ($12,000)" and inserting "fourteen thousand dollars ($14,000)".

Sec. 5. Chapter 766 of the 1973 Session Laws is hereby amended in Section 5, subsections (1), (2), and (3) with deletions from and insertions to the enumerated subsections as follows:

a. Subsection (1) by deleting "six thousand dollars ($6,000)" and inserting "seven thousand six hundred dollars ($7,600)".

b. Subsection (2) by deleting "seven thousand five hundred dollars ($7,500)" and inserting "eight thousand eight hundred dollars ($8,800)".

c. Subsection (3) by deleting "nine thousand five hundred dollars ($9,500)" and inserting "eleven thousand dollars ($11,000)".

Sec. 6. Chapter 766 of the 1973 Session Laws is hereby amended in Section 6, subsections (1) and (2) with deletions from and insertions to the enumerated subsections as follows:

a. Subsection (1) by deleting "six thousand dollars ($6,000)" and inserting "seven thousand six hundred dollars ($7,600)".

b. Subsection (2) by deleting "seven thousand five hundred dollars ($7,500)" and inserting "eight thousand eight hundred dollars ($8,800)".

Sec. 7. Chapter 766 of the 1973 Session Laws is hereby amended in Section 7 by striking the words and numbers "six thousand five hundred dollars ($6,500)" and inserting in lieu thereof the words and numbers "seven thousand six hundred dollars ($7,600)".

Sec. 8. Chapter 766 of the 1973 Session Laws is hereby amended by renumbering Section 8 as Section 11 and by inserting a new Section 8 to read as follows:

"Sec. 8. Funds appropriated or otherwise made available for application to the Law Enforcement Officers' Minimum Salary Act shall be distributed in accordance with the following schedule:

(1) No agency shall receive funds appropriated pursuant to the Law Enforcement Officers' Minimum Salary Act for fiscal year 1977-1978 unless such agency is providing seventy-five percent (75%) of the minimum salaries specified by Chapter 766 of the 1973 Session Laws as amended by this act.

(2) No agency shall receive funds appropriated pursuant to the Law Enforcement Officers' Minimum Salary Act for fiscal year 1978-1979 unless such agency is providing eighty percent (80%) of the minimum salaries specified by Chapter 766 of the 1973 Session Laws as amended by this act.

(3) No agency shall receive funds appropriated pursuant to the Law Enforcement Officers' Minimum Salary Act for fiscal year 1979-1980 unless such agency is providing eighty-five percent (85%) of the minimum salaries specified by Chapter 766 of the 1973 Session Laws as amended by this act.

(4) No agency shall receive funds appropriated pursuant to the Law Enforcement Officers' Minimum Salary Act for fiscal year 1980-1981 unless such agency is providing ninety percent (90%) of the minimum salaries specified by Chapter 766 of the 1973 Session Laws as amended by this act.

(5) No agency shall receive funds appropriated pursuant to the Law Enforcement Officers' Minimum Salary Act for fiscal year 1981-1982 unless such agency is providing ninety-five percent (95%) of the minimum salaries specified by Chapter 766 of the 1973 Session Laws as amended by this act."

Sec. 9. Chapter 766 of the 1973 Session Laws is hereby amended by deleting Section 9 and by inserting a new Section 9 to read as follows:

"Sec. 9. It is the expressed intent of the General Assembly that the salary supplementing provisions of this act will continue to be applicable when a law enforcement officer, as hereinbefore defined in Section 2 (4) of the act as amended, is authorized by his executive officer to be away from active duty service participating in relevant training and educational programs."

Sec. 10. Chapter 766 of the 1973 Session Laws is hereby amended by renumbering Section 10 as Section 12 and by inserting a new Section 10 to read as follows:

"Sec. 10. No law enforcement agency shall be eligible to participate in the Law Enforcement Officers' Minimum Salary Act, nor shall the provisions thereof be applicable to individual officers of such employing agency, unless both agency and individuals are in compliance with and conform to the rules and procedures of all applicable certification and standards programs of the North Carolina Criminal Justice Training and Standards Council as formally incorporated in the North Carolina Administrative Code or in such other

official recording as may hereafter be legislatively required for validity and lawful application of the rules and procedures."

Sec. 11. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 12. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 91 CHAPTER 932

AN ACT TO ESTABLISH A LAND RECORDS MANAGEMENT PROGRAM IN THE DEPARTMENT OF ADMINISTRATION.

The General Assembly of North Carolina enacts:

Section 1. A new G.S. 143-345.6 is enacted to read as follows:

"§ 143-345.6. *Land records management program.*—(a) The Secretary of Administration shall establish a land records management program for the purposes (1) of advising registers of deeds, local tax officials, and local planning officials about sound management practices, and (2) of establishing greater uniformity in local land records systems. The management program shall consist of the activities provided for in subsections (b), (c), (d), and (e) below, and other related activities essential to the effective conduct of the management program.

(b) The secretary shall, in cooperation with the Secretary of Cultural Resources, develop recommended standards and specifications for the reproduction of records by photography, microphotography, and by other means, and for the security of recorded documents. The recommended standards and specifications developed shall take into account the needs of the general public, space requirements of local offices, the costs of various filming and recording technologies, personnel available to staff local records offices, and the need for permanency of records affecting title to land. The recommended standards and specifications shall not be binding upon the offices of local governments to which they apply.

(c) Mapping programs.

(1) The secretary shall, in cooperation with the Secretary of the Department of Natural and Economic Resources, conduct a program for the preparation of county base maps pursuant to standards prepared by the Department of Natural and Economic Resources.

(2) The secretary shall, in cooperation with the Secretary of Revenue, conduct a program for the preparation of county property-line maps under the direction of qualified surveyors pursuant to standards prepared by the Departments of Revenue and Natural and Economic Resources.

(d) Upon the joint request of any board of county commissioners and the register of deeds and subject to available resources of personnel and funds, the secretary shall make a management study of the office of register of deeds, using assistance from the Office of State Personnel. At the conclusion of the study,

the secretary shall make non-binding recommendations to the board, the register of deeds, and to the General Assembly.

(e) The secretary, in cooperation with the Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall undertake research and provide advice and technical assistance to local governments on the following aspects of land records management:

(1) uniform indexing of land records;

(2) uniform recording and indexing procedures for maps, plats, and condominiums;

(3) centralized recording systems;

(4) filming, filing, and recording techniques and equipment; and

(5) computerized land records systems.

(f) An advisory committee on land records is created to assist the secretary in administering the land records management program. The Governor shall appoint 12 members to the committee; one member shall be appointed from each of the organizations listed below from persons nominated by the organization:

(1) the North Carolina Association of Assessing Officers;

(2) the North Carolina Section of the American Society of Photogrammetry;

(3) the North Carolina Chapter of the American Institute of Planners;

(4) the North Carolina Section of the American Society of Civil Engineers;

(5) the North Carolina Tax Collectors' Association;

(6) the North Carolina Association of Registers of Deeds;

(7) the North Carolina Bar Association;

(8) the North Carolina Society of Land Surveyors; and

(9) the North Carolina Association of County Commissioners.

In addition, three members from the public at large shall be appointed. The members of the committee shall be appointed for four-year terms, except that the initial terms for members listed in positions (1) through (4) above and for two of the members-at-large shall be two years; thereafter all appointments shall be for four years. The Governor shall appoint the chairman, and the committee shall meet at the call of the chairman. The Governor in making the appointments shall try to achieve geographical and population balance on the advisory committee; one third of the appointments shall be persons from the most populous counties in the State containing approximately one third of the State's population, one third from the least populous counties containing approximately one third of the State's population, and one third shall be from the remaining moderately populous counties containing approximately one third of the State's population. Each organization shall nominate one nominee each from the more populous, moderately populous, and less populous counties of the State. The members of the committee shall receive per diem and subsistence and travel allowances as provided in G.S. 138-5."

Sec. 2. In addition to all other funds appropriated, there shall be appropriated from the General Fund to the Department of Administration for the purpose of implementing this act, thirty-seven thousand five hundred dollars ($37,500) for each fiscal year of the 1977-79 biennium.

Sec. 3. This act shall become effective upon ratification and shall expire on July 1, 1981, unless further extended prior to that time.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 110 CHAPTER 933

AN ACT TO PROHIBIT SETTING OR USING TRAP OF LEG-GRIPPING, STEEL-JAWED OR CONNIBEAR TYPE FOR THE CAPTURING OF ANIMALS OR BIRDS IN NORTH CAROLINA.

Whereas, it is of general concern to the people of our State that no animals be needlessly or brutally killed or permanently maimed; and

Whereas, because many kinds of relatively humane traps for animals are now available; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. No person shall set any trap of any kind or description, or otherwise attempt to set any trap of any kind or description, or attempt to trap any animal on lands other than his own, unless the person setting or attempting to set such trap, or attempting to trap such animal, has in his possession a written permission, dated within one calendar year, from the owner or owners or its, his, hers or their agent of the land where such act occurs granting permission to trap thereon. Provided, however, the provisions of this section shall not apply to all public lands where trapping is not specifically prohibited; this shall include tidelands, marshlands and any other untitled land.

Sec. 2. No person shall set any trap, or attempt to set any trap known as "steel-jaw", "leghold" or "connibear", unless it is manufactured or modified so that it:

(1) has a jaw spread of not more than seven and one-half inches;

(2) is horizontally offset with closed jaw spread of at least three-sixteenths of an inch for a trap with a jaw spread of more than five and one-half inches;

(3) is smooth edged and without teeth or spikes;

(4) if set on dry land with solid anchor, shall not have attached thereto a trap chain exceeding eight inches from trap to anchor without having a shock absorbing device approved by the Wildlife Resources Commission, and in no event shall any trap chain exceed two feet in length;

(5) has tag attached giving the owner's name and address.

Sec. 3. Traps may be set in the following manner notwithstanding any provisions of Section 2:

(1) if set in the water with quick drown type of set, then "offset" in paragraph (2) of Section 2 will not apply; and

(2) trap number 330 of the connibear type or size may only be set in the water and in areas where beaver and otter may be legally trapped.

Sec. 4. Provided that nothing in this act shall prohibit the use of steel or metal jaw traps by County or State Public Health Officials or their designated agents in order to control the spread of disease when the use of such steel or metal jaw traps has been declared necessary by the Department of Human Resources.

Sec. 5. No person shall set or otherwise use any trap so that animals or birds when caught will be suspended. No hook of any type shall be used to trap wild animals or birds. All traps of the "connibear" (size 330) must be set in the water, and

(1) water set for the purpose of this act is defined as a trap set totally covered by water and the anchor secured in water deep enough to quickly drown the animal trapped, and

(2) for the purpose of this act traps set in areas of tidal waters, the mean high water will be considered as covering water, and in reservoir areas covering water is the low water level prevailing during the preceding twenty-four hours, and

(3) for the purpose of this act marshland is not considered dry land. (Marshland is defined in G.S. 113-229 (n)(3).)

Sec. 6. The Wildlife Resources Commission shall include requirements for lawful traps in its annual digest of hunting and trapping regulations which is provided to each person upon purchase of a license.

Sec. 7. No person shall remove any legally placed trap or remove any furbearing animal from any trap other than his own, set in compliance with the provisions of this act, unless with the express permission of the owner of the trap.

Sec. 8. Any person violating any provision of this act is guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00) or imprisoned for not more than 90 days, or both fined and imprisoned. The court, in its wisdom and judgment, may revoke the trapping license of any person who flagrantly or repeatedly (two or more times) violates the provisions of this act.

Sec. 9. Any officer or wildlife protector authorized to enforce the provisions of this act, who in the lawful pursuit of his duties has probable cause for believing he has discovered a violation of this act, or any other trapping act, may seize any animal, bird, trap or pelt used in connection with such violation, and such property shall be delivered to the court. Upon conviction of any provision of this act, the court may order that said trap, animal, bird or pelt be confiscated and disposed of as the court may require.

Sec. 10. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 120

CHAPTER 934

AN ACT TO APPROPRIATE FUNDS TO ESTABLISH REGIONAL EDUCATION CENTERS FOR CHILDREN WITH SPECIAL NEEDS.

Whereas, the General Assembly in Chapter 896 of the 1975 Session Laws authorized the establishment by the Department of Public Instruction of regional education centers to train teachers to work with children with special needs;

Whereas, a need exists to expand the number of centers to provide training to teachers throughout the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina to the Department of Public Instruction, in addition to all other funds appropriated, the sum of four hundred thousand dollars ($400,000) for fiscal year 1977-78 and four hundred thousand dollars ($400,000) for fiscal year 1978-79 for the purpose of funding regional education training centers as authorized by Chapter 896, Session Laws of 1975.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 189 CHAPTER 935

AN ACT TO AMEND ARTICLE 31 OF CHAPTER 143 OF THE GENERAL STATUTES TO PROVIDE FOR THE DEFENSE OF SCHOOL BUS MAINTENANCE MECHANICS IN CIVIL ACTIONS ALLEGING NEGLIGENCE.

The General Assembly of North Carolina enacts:

Section 1. Paragraph (d) of G.S. 143-300.1 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina is hereby rewritten to read as follows:

"(d) The Attorney General may defend any civil action which may be brought against the driver of a public school bus or school transportation service vehicle or school bus maintenance mechanic when such driver or mechanic is paid or authorized to be paid from the State Public School Fund. The Attorney General may afford this defense through the use of a member of his staff or, in his discretion, employ private counsel. The Attorney General is authorized to pay any judgment rendered in such civil action not to exceed the limit provided under the Tort Claims Act. The Attorney General may compromise and settle any claim covered by this section to the extent that he finds the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority granted in this subsection shall be limited to only those claims which would be within the jurisdiction of the Industrial Commission under the Tort Claims Act."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to implement the provisions of this act.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 270 CHAPTER 936

AN ACT TO AMEND THE UNIFORM JUDICIAL RETIREMENT ACT TO ALLOW CREDIT FOR PAST SERVICE AS SOLICITOR OR DISTRICT ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-56(a) is hereby amended by deleting the word "or" following the last comma therein, and changing the period at the end thereof to a comma and adding the following thereto: "or as a solicitor or district attorney."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 337

CHAPTER 937

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE RESTORATION OF THE NEWBOLD-WHITE HOUSE IN PERQUIMANS COUNTY.

Whereas, the Perquimans County Restoration Association, Incorporated, has committed itself to the acquisition, restoration, and dedication to the public of the Newbold-White House in Perquimans County; and

Whereas, the Newbold-White House is situated on land granted to Joseph Scott in 1684 and is believed to be the oldest surviving dwelling house in North Carolina; and

Whereas, the General Assembly of North Carolina met at or near the site on several occasions between 1689 and 1697; and

Whereas, the house has been associated with personages of great importance in the early history of North Carolina; and

Whereas, the house is of architectural importance exhibiting the persistence of the medieval building practices and architectural forms better than any other structure in the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of thirteen thousand five hundred dollars ($13,500), twelve thousand five hundred dollars ($12,500) of which will be available to the Perquimans County Restoration Association for the purpose of restoring the interior of the Newbold-White House, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Perquimans County Restoration Association for the project provided an amount of twelve thousand five hundred dollars ($12,500) is raised by the Perquimans County Restoration Association for use on the project; and for the 1978-79 fiscal year, the sum of thirteen thousand five hundred dollars ($13,500), twelve thousand five hundred dollars ($12,500) of which will be available to the Perquimans County Restoration Association for the purpose of completing the Newbold-White House restoration, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Perquimans County Restoration Association, provided an amount of twelve thousand five hundred dollars ($12,500) is raised by the Perquimans County Restoration Association for use on the project.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 374 **CHAPTER 938**

AN ACT TO APPROPRIATE FUNDS FOR THE JAMES IREDELL HOUSE STATE HISTORIC SITE.

Whereas, the James Iredell House State Historic Site in Chowan County is owned by the State of North Carolina and is maintained and operated by the Department of Cultural Resources, Division of Archives and History, with cooperation from the James Iredell Association; and

Whereas, there is great need at the historic site for (a) maintenance personnel, and (b) restoration and furnishing of the James Iredell House and formal garden for use as an educational facility by visitors and school children in particular; Now, therefore.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, for the fiscal year 1977-78 the sum of seven thousand twenty dollars ($7,020) for maintenance personnel at the James Iredell House State Historic Site.

Sec. 2. There is hereby appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, for the 1977-78 biennium the sum of fifteen thousand dollars ($15,000) subject to the raising of an additional three thousand dollars ($3,000) by the James Iredell Association, for the purposes of restoring and furnishing the James Iredell House State Historic Site and formal garden. Funds appropriated by this section shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 375 **CHAPTER 939**

AN ACT TO APPROPRIATE FUNDS FOR RESTORATION WORK AT THE CUPOLA AND BARKER HOUSES IN EDENTON.

Whereas, the Cupola House in Edenton is recognized as one of North Carolina's most important historic buildings, having been designated a National Historic Landmark; and

Whereas, the Barker House in Edenton was the home of Thomas Barker, one of North Carolina's significant colonial figures, and is utilized today as a visitor's center and museum; and

Whereas, with the assistance of State, federal, and local governments and businesses, local and statewide organizations and private citizens of the area, Historic Edenton, Inc., has undertaken the careful restoration, preservation, and maintenance of these two buildings for the education and enjoyment of the citizens of North Carolina; and

Whereas, funds are required to continue the restoration of these two historic properties; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of five thousand four hundred dollars ($5,400), five thousand dollars ($5,000) of which will be available to Historic Edenton, Inc., for the purpose of interior restoration work at the Cupola and Barker Houses in Edenton, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to Historic Edenton, Inc., for these projects, provided an amount of five thousand dollars ($5,000) is raised by Historic Edenton, Inc., for use on the project.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 395 CHAPTER 940

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR ADDITIONAL DEPUTY CLERKS OF COURT AND CLERICAL EQUIPMENT IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of ninety-four thousand seven hundred seventy-six dollars ($94,776) for fiscal year 1977-78 and the sum of ninety-four thousand three hundred fourteen dollars ($94,314) for fiscal year 1978-79 which sums together with appropriations in the 1977 Operations Budget Act (SB 16) are to be used for additional deputy clerks and clerical equipment to be allocated as follows: two additional deputy clerks each for Cleveland, Henderson, Onslow, Orange, and Rowan Counties, one additional deputy clerk each for Buncombe, Carteret, Craven, Davie, Granville, Greene, Surry and Robeson Counties, and four additional deputy clerks for Durham County, and three additional deputy clerks for New Hanover County.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 407 CHAPTER 941

AN ACT TO APPROPRIATE FUNDS FOR THE MAINTENANCE OF THE SITE SURROUNDING THE OLDEST AND LARGEST AMERICAN HOLLY TREE IN THE WORLD.

Whereas, in the community of Olympia in Pamlico County, North Carolina, there stands the oldest and largest American holly tree in the world; and

Whereas, in 1964 the State of North Carolina purchased two and one-half acres of land surrounding this ancient tree for the purpose of insuring its permanent preservation and care; and

Whereas, in the same year the North Carolina Holly Arboretum Commission was established by the Governor to administer the affairs of the holly tree site; and

Whereas, the holly tree is one of the rare and unique natural treasures of North Carolina and is visited yearly by thousands of interested Americans; and

Whereas, the State of North Carolina, commensurate with its ownership, has not to date provided continuing support for the maintenance of the site and the care of the tree and has allowed the site to fall frequently into disrepair; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History of the Department of Cultural Resources for the 1977-78 fiscal year the sum of two thousand dollars ($2,000) and for the 1978-79 fiscal year the sum of two thousand dollars ($2,000) to be used for the maintenance of the site of the holly tree in Olympia, Pamlico County, to be used for continuing care for the holly tree as needed, and to be used for any other purpose required to protect and preserve this unique American wonder.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 461 CHAPTER 942

AN ACT TO APPROPRIATE FUNDS FOR CERTAIN INJURIES AND DEATHS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Justice the sum of one hundred fifty-one thousand dollars ($151,000) for the fiscal year 1977-78 for the purpose of settling claims against the State of North Carolina in connection with injuries or deaths caused by the collapse of bridges.

Sec. 2. Notwithstanding any provision of law to the contrary, the Attorney General may negotiate settlements to be paid to persons injured and to the estates of persons killed in bridge collapse incidents, the total of such settlements not to exceed the amount herein appropriated; provided, however, that no money shall be paid to any party unless a release is executed whereby all further claims of such party against the State in connection with the said bridge collapse incident are relinquished.

Sec. 3. This act shall become effective July 1, 1977, and shall apply to incidents occurring in 1974-75 and subsequent fiscal years.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 560

CHAPTER 943

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION OF BUILDINGS OWNED OR LEASED BY THE ROCKFORD PRESERVATION SOCIETY, INC., IN THE TOWN OF ROCKFORD, SURRY COUNTY.

Whereas, the Town of Rockford was the county seat of Surry County from 1789 to 1850; and

Whereas, there are structures and sites of significance in the town; and

Whereas, the Rockford Preservation Society, Inc., has already raised approximately twenty thousand dollars ($20,000) of private, foundation, and State funds for the preservation of buildings and sites in Rockford; and

Whereas, the Rockford Preservation Society, Inc., desires additional State assistance in the stabilization and preservation of the York Tavern, the Bland House, the Old Post Office, and the Old Store (also called the Davenport House); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year, the sum of five thousand four hundred dollars ($5,400), five thousand of which will be available to the Rockford Preservation Society, Inc., for the purpose of historical research and stabilization of the structures owned or leased by the society, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Rockford Preservation Society, Inc., for the project, provided an amount of five thousand dollars ($5,000) is raised by the Rockford Preservation Society, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 20

CHAPTER 944

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES TO ESTABLISH THE WESTERN NORTH CAROLINA HERITAGE CENTER.

Whereas, the cultural heritage of the mountain region of North Carolina has made an immeasurable contribution to all the citizens of the State; and

Whereas, the folk art and crafts of Western North Carolina enjoy a unique position in our national culture; and

Whereas, there is a need to give special public recognition to the region's early inhabitants; and

Whereas, it is desirable to preserve and perpetuate the history and cultural heritage of the 22 counties in the mountain region of North Carolina; and

Whereas, the Western North Carolina Historical Association has obtained a long-term lease commitment from the Asheville-Buncombe Technical Institute for the premises known as the Smith McDowell House on Victoria Road in Buncombe County, North Carolina, which Smith McDowell House is a

residence of significant historical importance to all of Western North Carolina; and

Whereas, during the 1975 Session of the General Assembly, the sum of twenty-five thousand dollars ($25,000) was appropriated for the purpose of restoring and maintaining the Smith McDowell House; and

Whereas, an additional appropriation is needed to continue the work being done on the Smith McDowell House during the next fiscal year; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of twenty thousand dollars ($20,000) provided a like amount is raised by the Western North Carolina Historical Association, Inc., after July 1, 1977, for the purpose of the restoration and maintenance of the Smith McDowell House. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 50 Chapter 945

AN ACT TO IMPROVE THE STATUS AND EFFECTIVENESS OF MAGISTRATES IN THE NORTH CAROLINA SYSTEM OF JUSTICE, TO ESTABLISH A SALARY CLASSIFICATION PLAN FOR MAGISTRATES AND TO MAKE AN APPROPRIATION THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-146, as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by

(a) rewriting subsection (4) to read as follows:

"(4) Assigning matters to magistrates, and consistent with the salaries set by the Administrative Officer of the Courts, prescribing times and places at which magistrates shall be available for the performance of their duties; however, the chief district judge may in writing delegate his authority to prescribe times and places at which magistrates in a particular county shall be available for the performance of their duties to an employee of the General Court of Justice within that particular county, and the person to whom such authority is delegated shall make monthly reports to the chief district judge of the times and places actually served by each magistrate;"; and

(b) by rewriting subsection (9) to read as follows:

"(9) Assigning magistrates during an emergency to temporary duty outside the county of their residence but within that district; and, upon the request of a chief district judge of an adjoining district and upon the approval of the Administrative Officer of the Courts, to temporary duty in the district of the requesting chief district judge; and".

Sec. 2. G.S. 7A-170 is rewritten to read as follows:

"§ 7A-170. *Nature of office and oath.*—A magistrate is an officer of the district court. Before entering upon the duties of his office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court of

Justice. A magistrate possesses all the powers of his office at all times during his term."

Sec. 3. The short title and subsections (a) and (b) of G.S. 7A-171 are rewritten to read as follows:

"§ 7A-171. *Numbers; appointment and terms; vacancies.*—(a) The General Assembly shall establish a minimum and a maximum quota of magistrates for each county. In no county shall the minimum quota be less than one.

(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in December of each even-numbered year, the clerk of the superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each magisterial office in the minimum quota established for the county. Not later than the fourth Monday in December, the senior regular resident superior court judge shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to fill the minimum quota established for each county of his district. The term of a magistrate so appointed shall be two years, commencing on the first day in January of the calendar year next ensuing the calendar year of appointment."

Sec. 4. Subsections (c) and (d) of G.S. 7A-171 are rewritten to read as follows:

"(c) After the biennial appointment of the minimum quota of magistrates, additional magistrates in a number not to exceed, in total, the maximum quota established for each county may be appointed in the following manner. The chief district judge, with the approval of the Administrative Officer of the Courts, may certify to the clerk of superior court that the minimum quota is insufficient for the efficient administration of justice and that a specified additional number, not to exceed the maximum quota established for the county, is required. Within 15 days after the receipt of this certification the clerk of superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each additional magisterial office. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall from the nominations submitted appoint magistrates in the number specified in the certification. A magistrate so appointed shall serve a term commencing immediately and expiring on the same day as the terms of office of magistrates appointed to fill the minimum quota for the county.

(d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of superior court shall submit to the senior regular resident superior court judge the names of two (or more, if so requested by the judge) nominees for the office vacated. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall appoint from the nominations received a magistrate who shall take office immediately and shall serve for the remainder of the unexpired term."

Sec. 5. G.S. 7A-172 is repealed and a new section G.S. 7A-171.1 is inserted in Article 16 of Chapter 7A of the General Statutes to read as follows:

"§ 7A-171.1. *Duty hours and salary.*—The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate, so designated by the Administrative Officer of the Courts, shall be paid the annual salary indicated in the table below according to

the number of years he has served as a magistrate prior to the beginning of that term:

Table of Salaries of Full-Time Magistrates

Number of prior years of service	Annual salary
Less than 1	$ 8,172
1 or more but less than 3	8,892
3 or more but less than 5	9,720
5 or more but less than 7	10,596
7 or more but less than 9	11,580
9 or more	12,672

A "full-time magistrate" is a magistrate who is assigned to work an average of not less than 40 hours a week during his term of office.

Notwithstanding any other provision of this subsection, a full-time magistrate, who was serving as a magistrate on December 31, 1978, and who was receiving an annual salary in excess of that which would ordinarily be allowed under the provisions of this subsection, shall not have the salary, which he was receiving reduced during any subsequent term as a full-time magistrate. That magistrate's salary shall be fixed at the salary level from the table above which is nearest and higher than the latest annual salary he was receiving on December 31, 1978, and, thereafter, shall advance in accordance with the schedule in the table above.

(2) A part-time magistrate, so designated by the Administrative Officer of the Courts, shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during his term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

A 'part-time magistrate' is a magistrate who is assigned to work an average of less that 40 hours of work a week during his term. No magistrate may be assigned an average of less that 10 hours of work a week during his term.

Notwithstanding any other provision of this subsection, upon reappointment as a magistrate and being assigned to work the same or greater number of hours as he worked as a magistrate for a term of office ending on December 31, 1978, a person who received an annual salary in excess of that to which he would be entitled under the formula contained in this subsection shall receive an annual salary equal to that received during the prior term. That magistrate's salary shall increase in accordance with the salary formula contained in this subsection."

Sec. 6. A new section is added to Article 16 of Chapter 7A of the General Statutes to read as follows:

"§ 7A-171.2. *Qualifications for Nomination or Renomination.* —(a) In order to be eligible for nomination or for renomination as a magistrate an individual must be a resident of the county for which he is appointed.

(b) To be eligible for nomination as a magistrate, an individual must have successfully completed a high school education, or have qualified for a certificate of high school equivalency, or have successfully completed the course of basic training prescribed by G.S. 7A-177.

(c) In order to be eligible for renomination as a magistrate an individual must have successfully completed the course of basic training for magistrates prescribed by G.S. 7A-177.

(d) Notwithstanding any other provision of this subsection, an individual who holds the office of magistrate on July 1, 1977, shall not be required to have successfully completed the course of basic training for magistrates prescribed by G.S. 7A-177 in order to be eligible for renomination as a magistrate."

Sec. 7. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of two hundred thousand dollars ($200,000) for fiscal year 1978-1979. The sum appropriated shall be placed in a reserve entitled "Salary Classification Revisions for Magistrates" and shall be used exclusively for the salary changes for magistrates specified by this act. Any unused portion of the appropriation shall revert to the General Fund at the end of the fiscal year.

Sec. 8. Sections 1, 2, 3, 6, 7 and 8 of this act shall become effective on July 1, 1977. Sections 4 and 5 of this act shall become effective on September 1, 1978; however, salaries of magistrates serving on that date shall remain the same during the remainder of that term of office, and the salaries of magistrates appointed to serve between September 1, 1978, and December 31, 1978, shall be set in accordance with the statutes in existence prior to the date of effectiveness of these sections.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 141 CHAPTER 946

AN ACT TO AMEND ARTICLES 9 AND 27 OF CHAPTER 105 OF THE GENERAL STATUTES PROVIDING FOR RELEASES, REFUNDS AND SUITS FOR RECOVERY OF TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-267 is hereby rewritten as follows:

"§ 105-267. *Taxes to be paid; suits for recovery of taxes.*—No court of this State shall entertain a suit of any kind brought for the purpose of preventing the collection of any tax imposed in this Subchapter. Whenever a person shall have a valid defense to the enforcement of the collection of a tax assessed or charged against him or his property, such person shall pay such tax to the proper officer, and such payment shall be without prejudice to any defense of rights he may have in the premises. At any time within 30 days after payment, the taxpayer may demand a refund of the tax paid in writing from the Secretary of Revenue and if the same shall not be refunded within 90 days thereafter, may sue the Secretary of Revenue in the courts of the State for the amount so demanded. Such suit may be brought in the Superior Court of Wake County, or in the county in which the taxpayer resides at any time within three years after the expiration of the 90-day period allowed for making the refund. If upon the trial it shall be determined that such tax or any part thereof was levied or assessed for an illegal or unauthorized purpose, or was for any reason invalid or excessive, judgment shall be rendered therefor, with interest, and the same shall be collected as in other cases. The amount of taxes for which judgment shall be rendered in such action shall be refunded by the State; provided,

nothing in this section shall be construed to conflict with or supersede the provisions of G.S. 105-241.2."

Sec. 2. G.S. 105-381 is hereby rewritten to read as follows:

"§ 105-381. *Taxpayer's remedies.*—(a) Statement of defense. Any taxpayer asserting a valid defense to the enforcement of the collection of a tax assessed upon his property shall proceed as hereinafter provided.

(1) For the purpose of this subsection, a valid defense shall include the following:
   a. a tax imposed through clerical error;
   b. an illegal tax;
   c. a tax levied for an illegal purpose.

(2) If a tax has not been paid, the taxpayer may make a demand for the release of the tax claim by submitting to the governing body of the taxing unit a written statement of his defense to payment or enforcement of the tax and a request for release of the tax at any time prior to payment of the tax.

(3) If a tax has been paid, the taxpayer, at any time within three years after said tax first became due or within six months from the date of payment of such tax, whichever is the later date, may make a demand for a refund of the tax paid by submitting to the governing body of the taxing unit a written statement of his defense and a request for refund thereof.

(b) Action of governing body. Upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the taxing unit shall within 90 days after receipt of such request determine whether the taxpayer has a valid defense to the tax imposed or any part thereof and shall either release or refund that portion of the amount that is determined to be in excess of the correct tax liability or notify the taxpayer in writing that no release or refund will be made. The action of the governing body on each application shall be recorded in its minutes. If a release is granted or refund made, the tax collector shall be credited with the amount released or refunded in his annual settlement.

(c) Suit for recovery of property taxes.

(1) Request for release before payment. If within 90 days after receiving a taxpayer's request for release of an unpaid tax claim under (a) above, the governing body of the taxing unit has failed to grant the release, has notified the taxpayer that no release will be granted, or has taken no action on the request, the taxpayer shall pay the tax. He may then within three years from the date of payment bring a civil action against the taxing unit for the amount claimed.

(2) Request for refund. If within 90 days after receiving a taxpayer's request for refund under (a) above, the governing body has failed to refund the full amount requested by the taxpayer, has notified the taxpayer that no refund will be made, or has taken no action on the request, the taxpayer may bring a civil action against the taxing unit for the amount claimed. Such action may be brought at any time within three years from the expiration of the period in which the governing body is required to act.

(d) Civil actions. Civil actions brought pursuant to subsection (c) above shall be brought in the appropriate division of the general court of justice of the county in which the taxing unit is located. If, upon the trial, it is determined

that the tax or any part of it was illegal or levied for an illegal purpose, or excessive as the result of a clerical error, judgment shall be rendered therefor with interest thereon at six percent (6%) per annum, plus costs, and the judgment shall be collected as in other civil actions."

Sec. 3. G.S. 105-382 is repealed.

Sec. 4. G.S. 1-52, as the same appears in the 1975 Cumulative Supplement to Replacement Volume 1A of the General Statutes, is amended by adding a new subsection 14 to read as follows:

"(14). For the recovery of taxes paid as provided in G.S. 105-267 and G.S. 105-381."

Sec. 5. This act shall become effective upon ratification but shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 155 CHAPTER 947

AN ACT TO AMEND G.S. 7A-133 TO AUTHORIZE ADDITIONAL MAGISTRATES IN CERTAIN COUNTIES AND TO PROVIDE FUNDS FOR AUTHORIZED MAGISTRATES IN OTHER COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-133, as it appears in the 1976 Interim Supplement to the General Statutes, is amended in the table with respect to the indicated counties by deleting the present minimum-maximum quota of magistrates, and inserting in lieu thereof the following new minimum-maximum quotas:

County	Magistrates	
	Minimum	Maximum
Martin	5	7
Craven	7	9
Pitt	10	12
Carteret	5	8
Sampson	6	8
Halifax	9	13
Greene	2	4
Lee	4	6
Hoke	4	5
Durham	8	10
Robeson	8	14
Surry	4	7
Guilford	20	25
Cabarrus	5	8
Randolph	5	8
Rowan	5	9
Davidson	7	10
Watauga	5	6
Polk	3	4

Sec. 2. There is hereby appropriated from the General Fund to the Judicial Department the sum of one hundred fifty-three thousand nine hundred and seventy-four dollars ($153,974) for each fiscal year of the 1977-79 biennium for an additional magistrate within the currently authorized quotas

for Bladen, Brunswick, Cabarrus, Cleveland, Greene, Northampton, Randolph, Rockingham, Sampson, and Surry Counties and for two additional magistrates for Hoke, Robeson and Watauga Counties.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 159 CHAPTER 948

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR FOREST FIRE CONTROL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund to the Department of Natural and Economic Resources, or its successor agency, in addition to all other appropriations, one hundred eleven thousand one hundred seventy-six dollars ($111,176) for the 1977-79 biennium, for the purpose of purchasing and operating a forest fire tractor plow unit in the Northampton County area.

Sec. 2. There is hereby appropriated out of the General Fund to the Department of Natural and Economic Resources, in addition to all other appropriations, one hundred eight thousand ninety dollars ($108,090) for fiscal year 1977-78 and fifteen thousand four hundred thirty dollars ($15,430) for fiscal year 1978-79 for the purpose of purchasing and operating a forest fire tractor plow unit in the Hoke and Cumberland County area.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 186 CHAPTER 949

AN ACT TO APPROPRIATE FUNDS TO EMPLOY CHAPLAINS IN THE DIVISION OF YOUTH SERVICES, DEPARTMENT OF HUMAN RESOURCES.

Whereas, for those desiring it, moral and religious counseling has been found to be of significant rehabilitative value for boys and girls in training schools; and

Whereas, religious freedom is guaranteed by the Constitutions of the United States and of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Department of Human Resources is authorized and directed to employ clinical chaplains to provide moral, religious and social counseling to boys and girls committed to the training schools of the Division of Human Resources. The Department of Human Resources shall seek to employ a diversity of qualified persons having differing faiths which are to the extent practical reflective of the professed religious composition of the student population of the Youth Services' training schools.

Sec. 2. There is hereby appropriated from the General Fund the sum of twenty-nine thousand seven hundred dollars ($29,700) for the fiscal year 1977-78 and the sum of forty-two thousand seven hundred eighty-seven dollars

($42,787) for the fiscal year 1978-79 to be used by the Department of Human Resources, Division of Youth Services.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 187 CHAPTER 950

AN ACT TO APPROPRIATE FUNDS TO EMPLOY CHAPLAINS IN THE DIVISION OF PRISONS, DEPARTMENT OF CORRECTION.

Whereas, for those desiring it, moral and religious counselling has been found to be of significant rehabilitative value for persons in prison; and

Whereas, the free exercise of religion by a prisoner ought not to be impeded more than is necessitated by the fact of his confinement; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Department of Correction is authorized and directed to employ clinical chaplains to provide moral, spiritual and social counselling and ministerial services to inmates in the custody of the Secretary of the Department of Correction. The Department of Correction shall seek to employ a diversity of qualified persons having differing faiths which are to the extent practicable reflective of the professed religious composition of the inmate population.

Sec. 2. There is hereby appropriated from the General Fund the sum of one hundred thousand dollars ($100,000) for the fiscal year 1977-78 to be used by the Department of Correction for employing chaplains.

Sec. 3. There is hereby appropriated from the General Fund the sum of one hundred fifty thousand dollars ($150,000) for the fiscal year 1978-79 to be used by the Department of Correction for employing chaplains.

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 256 CHAPTER 951

AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE USE OF OLD SALEM IN INTERPRETING THE HISTORY AND CULTURE OF EIGHTEENTH CENTURY PIEDMONT NORTH CAROLINA FOR SCHOOL CHILDREN AND ADULT VISITORS.

The General Assembly of North Carolina enacts:

Section 1. In addition to the 1977-79 appropriations recommended by the Director of the Budget and the Advisory Budget Commission and set out on page J-13 of the Budget Document for the 1977-79 biennium, there is hereby appropriated from the General Fund of the State to the Department of Culturual Resources, as a grant-in-aid to historic Old Salem, the sum of twelve thousand dollars ($12,000) for the fiscal year 1977-78, and the sum of twelve thousand dollars ($12,000) for the fiscal year 1978-79, so that the total grant-in-aid appropriation for Old Salem will be one hundred ten thousand dollars ($110,000) for the fiscal year 1977-78, and one hundred ten thousand dollars

($110,000) for the fiscal year 1978-79. It is the intent of this act that these appropriations are for the use of Old Salem in interpreting the history and culture of Eighteenth Century Piedmont North Carolina for school children and adult visitors.

Sec. 2. This appropriation shall become a part of the Continuation Budget of the Department of Cultural Resources.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 339 CHAPTER 952

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR THE IMPROVEMENT OF OYSTERS AND CLAMS IN PUBLIC WATERS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the North Carolina Department of Natural and Economic Resources, or its successor, the sum of fifty thousand dollars ($50,000) for each fiscal year of the biennium for the purpose of increasing oyster, clam and other shellfish populations in the public waters of the State of North Carolina in a manner which, in the discretion of the department, will provide the greatest economic benefit to the shellfish industry of the State.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 350 CHAPTER 953

AN ACT TO APPROPRIATE FUNDS TO THE ASHEVILLE HEALTH EDUCATION MUSEUM, A NONPROFIT CORPORATION.

Whereas, there is a desire to improve the personal health standards of the children of Western North Carolina; and

Whereas, the Asheville Health Education Museum, founded in 1966 as the Children's Health Museum, was created for this purpose; and

Whereas, because of increased interest in and visitation to the museum, there is a need for an enlarged and more comprehensive facility; and

Whereas, there is a need for a more complete training and education center for health personnel in Western North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund the sum of five thousand dollars ($5,000) to the Asheville Health Education Museum, Incorporated, a nonprofit corporation, for an enlarged and more comprehensive facility.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 354 **CHAPTER 954**

AN ACT TO APPROPRIATE FUNDS FOR THE SCHIELE MUSEUM OF NATURAL HISTORY AND PLANETARIUM, INC., IN GASTONIA.

Whereas, the Schiele Museum of Natural History and Planetarium, Inc., located in Gastonia, North Carolina, has, over the past 16 years, provided millions of the residents of this State with a Museum of Natural History; and

Whereas, the museum has permanent displays of our environment, space exploration and historical data dealing with our total background; and

Whereas, the museum has 680,000 visitors annually, representing people from eighty percent (80%) or more of the counties in the State and is the most heavily visited museum in the State; and

Whereas, the City of Gastonia and the county of Gaston did in 1976 furnish one hundred thirty thousand dollars ($130,000) in operating costs; and

Whereas, the museum now owns 16 acres of land; has buildings and exhibits and has added a learning center and needs capital and operating funds to install major exhibits interpreting the total natural history of North Carolina from the mountains to the sea; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources the sum of fifty thousand dollars ($50,000) for fiscal year 1977-78 to be used for the continuation of capital improvements and operating funds for the Schiele Museum of Natural History and Planetarium, Inc., in Gastonia, North Carolina. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 369 **CHAPTER 955**

AN ACT TO AMEND CHAPTER 1007 OF THE 1971 SESSION LAWS TO PROVIDE TWO ADDITIONAL TEACCH CENTERS IN CHARLOTTE AND WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1007 of the 1971 Session Laws is hereby amended by rewriting Section 2 to read as follows:

"Sec. 2. The Institute will consist of five centers to be designated and located as follows:

(1) the Eastern Regional Center to be located as near as is feasible to the campus of East Carolina University;

(2) the Western Regional Center to be located as near as is feasible to Asheville;

(3) the Piedmont Regional Center to be located as near as is feasible to the campus of The University of North Carolina at Chapel Hill; the Piedmont Regional Center shall also serve as the administrative and research center for the institute;

(4) the South Central Regional Center at Charlotte;

(5) the Southeastern Regional Center at Wilmington."

Sec. 2. There is hereby appropriated from the General Fund the sum of two hundred six thousand one hundred thirty dollars ($206,130) for fiscal year 1977-1978 and one hundred eighty-three thousand five hundred thirty dollars ($183,530) for fiscal year 1978-79 to be used by the Dean of the School of Medicine of The University of North Carolina at Chapel Hill for the establishment and operation of the Southeastern Regional Center at Wilmington and the South Central Center at Charlotte.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 412 CHAPTER 956

AN ACT TO APPROPRIATE FUNDS TO WILKES COMMUNITY COLLEGE TO STUDY A PROPOSAL TO CONSTRUCT ON CAMPUS A BUILDING TO HOUSE THE JAMES LARKIN PEARSON COLLECTION.

The General Assembly of North Carolina enacts:

Section 1. In addition to all other appropriations, there is hereby appropriated from the General Fund the sum of ten thousand dollars ($10,000) for fiscal year 1978-79 to be used by Wilkes Community College to study a proposal for the construction of a building on campus to house the James Larkin Pearson Collection.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 441 CHAPTER 957

AN ACT TO APPROPRIATE FUNDS FOR THE AVERY COUNTY MUSEUM.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History of the Department of Cultural Resources the sum of six thousand dollars ($6,000) for the fiscal year 1977-78 for assistance in developing and operating the Avery County Museum.

Sec. 2. Funds appropriated by this act shall be expended in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 502

CHAPTER 958

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE DEPARTMENT OF HUMAN RESOURCES FOR USE IN GUARDIANSHIP PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated, in addition to all other funds, to the Administrative Office of the Courts the sum of nine thousand six hundred dollars ($9,600) in fiscal year 1977-1978 and the sum of thirty-eight thousand four hundred dollars ($38,400) in fiscal year 1978-1979 to be used to defray the costs of court-appointed counsel in proceedings to adjudicate adults to be impaired under the provisions of General Statutes Chapter 35, Article 1A.

Sec. 2. There is hereby appropriated, in addition to all other funds, to the Department of Human Resources, Departmental Administration, the sum of fourteen thousand four hundred dollars ($14,400) in fiscal year 1977-1978 and the sum of fifty-seven thousand six hundred dollars ($57,600) in fiscal year 1978-1979 to be used to defray the costs of preparing, causing to be prepared, or assembling the multidisciplinary evaluations required in proceedings to adjudicate adults to be impaired under the provisions of General Statutes Chapter 35, Article 1A.

Sec. 3. These appropriations shall become part of the continuation budget of the Administrative Office of the Courts and the Department of Human Resources, respectively.

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 522

CHAPTER 959

AN ACT TO CREATE A COMMISSION TO STUDY AND EVALUATE ARTICLE 33B, THE MEETINGS OF GOVERNMENTAL BODIES (G.S. 143-318).

The General Assembly of North Carolina enacts:

Section 1. There is hereby created a Legislative Study Commission for State Policies on the Meetings of Governmental Bodies to be composed of 12 members, four of whom shall be appointed by the Governor, four of whom shall be members of the Senate and appointed by the President Pro Tempore of the Senate, and four of whom shall be members of the House of Representatives who shall be appointed by the Speaker of the House. The chairman shall be elected by the members.

Sec. 2. The commission shall:

(1) review and evaluate the effectiveness of the current statutes relating to meetings of governmental bodies;

(2) using original House Bill 522 (1977 Session) as a basis for study of the revision of the present statutes, report to the 1977 General Assembly, Second Session 1978, its findings and recommendations with respect to the policies that should govern the meetings of governmental bodies within the State.

Sec. 3. The members of the commission shall be paid such per diem and travel expenses as are provided for members of State boards and commissions

generally. Reasonable expenses of the commission shall be paid from the Contingency and Emergency Fund under the procedure in G.S. 143-12.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 532 CHAPTER 960

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR FISCAL YEARS 1977-1979 TO ESTABLISH AND FUND THE DIVISION FOR AGING.

Whereas, there are more than 700,000 senior citizens of North Carolina; and

Whereas, many of these senior citizens are in need of the attention of the State; and

Whereas, it is the intent of the Governor and the General Assembly to afford senior citizens such care, services, and assistance as they may require; and

Whereas, it is the intent of the Governor and the General Assembly to provide such care, services, and assistance through the Division for Aging of the Department of Human Resources; and

Whereas, the financial resources needed to meet initial and current expenses of the Division for Aging exceed those presently available and budgeted to the Department of Human Resources; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Department of Human Resources, in addition to all other appropriations, the sum of fifty thousand dollars ($50,000) in fiscal year 1977-1978 and fifty thousand dollars ($50,000) in fiscal year 1978-1979 for the purpose of establishing and funding the Division for Aging.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 565 CHAPTER 961

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA ALCOHOLISM RESEARCH AUTHORITY TO PROVIDE FOR SCIENTIFIC RESEARCH.

Whereas, there is a recognized need for scientific research into the causes and possible prevention of the addictive disease called alcoholism; and

Whereas, this research is primarily conducted in the universities associated with the four medical schools in North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the North Carolina Alcoholism Research Authority from the General Fund, in addition to all other appropriations, the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1977-78, and the sum of one hundred fifty thousand dollars

($150,000) for fiscal year 1978-79, the said appropriations to be expended for scientific research into the causes and prevention of alcoholism.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 569 CHAPTER 962

AN ACT TO APPROPRIATE FUNDS FOR MITCHELL COMMUNITY COLLEGE.

Whereas, the State of North Carolina has adopted the policy of appropriating at least five hundred thousand dollars ($500,000) in capital outlay to each community college or technical institute in the public system; and

Whereas, Mitchell Community College, due to its late entry into the system, has received only one hundred thousand dollars ($100,000) in State construction funds and less than one hundred fifty thousand dollars ($150,000) for instructional equipment, by far the lowest such allocations to any of the other 56 institutions in the system; and

Whereas, Mitchell Community College's enrollment, since joining the public system, has risen from an annual average of 450 to a total of 1,064, almost all of which has been in the technical and vocational programs; and

Whereas, in addition to the original transfer of a physical plant valued at two million dollars ($2,000,000), the citizens of Iredell County have put up approximately one million five hundred thousand dollars ($1,500,000) in tax funds to renovate and expand administrative and classroom facilities on the campus; and

Whereas, Mitchell's curriculum is being expanded, with the approval of the State Board of Education and in cooperation with North Carolina State University, to include pre-veterinary training and courses in agricultural sciences; and

Whereas, this expansion in curriculum offerings makes imperative the erection of a basic science building on the campus to house classrooms and suitable laboratory equipment, at an estimated cost of seven hundred fifty thousand dollars ($750,000), toward which the county has agreed to appropriate an additional two hundred fifty thousand dollars ($250,000); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Out of construction funds appropriated to the Department of Community Colleges for fiscal 1977-78, the sum of four hundred thousand dollars ($400,000) is hereby designated as a State matching grant for capital improvements at Mitchell Community College, Statesville, N. C.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 584 **CHAPTER 963**

AN ACT TO APPROPRIATE FUNDS FOR THE CONSTRUCTION OF A FORESTRY SERVICE HEADQUARTERS BUILDING IN WILKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, Forest Service Division in addition to all other appropriations, for fiscal year 1977-78, the sum of thirty-five thousand dollars ($35,000) to be used to construct a Wilkes County Headquarters for said division.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 598 **CHAPTER 964**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR A FOREST SERVICE DISTRICT HEADQUARTERS BUILDING FOR NORTHWESTERN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, Forest Service Division, in addition to all other appropriations, the sum of one hundred sixty-one thousand dollars ($161,000) for fiscal year 1978-79. Said sum is to be used by the department for the construction of a new District Office of the Forest Service to serve, currently, the counties of Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Watauga and Wilkes. Said office shall be constructed in Caldwell County on the current site of the district headquarters of the Forest Service. Said sum is appropriated for the following purposes:

Standard Warehouse and Shop Building, Region III Type	$125,000
Equipment Shelter, Pole Construction	12,000
Site Preparation, Architectural Fees, Contingency and Other	8,000
Force Account Renovation and Expansion of Existing Office Structure	16,000
	$161,000

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 607 **CHAPTER 965**

AN ACT TO CLASSIFY SOLAR ENERGY SYSTEMS FOR AD VALOREM TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277 is amended by adding at the end thereof a new subsection (g), to read as follows:

"(g) Buildings equipped with a solar energy heating or cooling system, or both, are hereby designated a special class of property under authority of Article V, Section 2(2) of the North Carolina Constitution. Such buildings shall be assessed for taxation in accordance with each county's schedules of value for buildings equipped with conventional heating or cooling systems and no additional value shall be assigned for the difference in cost between a solar energy heating or cooling system and a conventional system typically found in the county. As used in this classification, the term 'system' includes all controls, tanks, pumps, heat exchangers and other equipment used directly and exclusively for the conversion of solar energy for heating or cooling. The term 'system' does not include any land or structural elements of the building such as walls and roofs nor other equipment ordinarily contained in the structure."

Sec. 2. This act shall become effective on January 1, 1978, and expire on December 1, 1985.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 618 **CHAPTER 966**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR FOREST FIRE CONTROL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund to the Department of Natural and Economic Resources, or its successor agency, in addition to all other appropriations, one hundred six thousand eight hundred thirty-eight dollars ($106,838) for fiscal year 1977-78 and nine thousand three hundred thirty-eight dollars ($9,338) for fiscal year 1978-79, for the purpose of purchasing and operating a forest fire tractor plow unit in the Wilson County area.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 625

CHAPTER 967

AN ACT TO ESTABLISH THE NORTH CAROLINA INTERNSHIP COUNCIL OF THE DEPARTMENT OF ADMINISTRATION.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B of the General Statutes, entitled "Department of Administration", is hereby amended by adding a new Part at the end thereof, to be numbered and to read as follows:

"PART 13.

"North Carolina Internship Council.

"§ 143B-399. *North Carolina Internship Council; creation; powers and duties.*—There is hereby created the North Carolina Internship Council of the Department of Administration. The North Carolina Internship Council shall have the following functions and duties:

(1) to determine the number of student interns to be allocated to each of the following offices or departments:

a. Office of the Governor
b. Department of Administration
c. Department of Correction
d. Department of Cultural Resources
e. Department of Revenue
f. Department of Transportation
g. Department of Natural and Economic Resources
h. Department of Commerce
i. Department of Crime Control and Public Safety
j. Department of Human Resources
k. Office of the Lieutenant Governor
l. Office of the Secretary of State
m. Office of the State Auditor
n. Office of the State Treasurer
o. Department of Public Education
p. Department of Justice
q. Department of Agriculture
r. Department of Labor
s. Department of Insurance;

(2) to screen applications for student internships and select from these applications the recipients of student internships; and

(3) to determine the appropriateness of proposals for projects for student interns submitted by the offices and departments enumerated in (1).

"§ 143B-400. *North Carolina Internship Council; members; selection; quorum; compensation.*—The North Carolina Internship Council shall consist of 17 members, including the Secretary of Administration or his designee, one member to be designated by and to serve at the pleasure of the Lieutenant Governor, one member to be designated by and to serve at the pleasure of the Speaker of the House of Representatives and the following 14 members to be appointed by the Governor to a two-year term commencing on July 1 of odd numbered years: two representatives of community colleges and technical institutes; four representatives of The University of North Carolina system; two representatives of private colleges or universities; three representatives of

colleges or universities with an enrollment of less than 5,000 students; and three former interns.

At the end of the respective terms of office of the 14 members of the council appointed by the Governor, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. The Governor may remove any member appointed by the Governor.

Any appointment to fill a vacancy on the council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The council shall meet at the call of the chairman or upon written request of at least five members.

The Governor shall designate a member of the council as chairman to serve at the pleasure of the Governor.

Members of the council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the council shall constitute a quorum for the transaction of business.

All clerical and other services required by the council shall be supplied by the Secretary of Administration.

"§ 143B-401. *North Carolina Internship Council; committees for screening applications.*—The North Carolina Internship Council may designate one representative from each office or department enumerated in G.S. 143B-399 to serve on a committee to assist pursuant to guidelines adopted by the council, in the screening and selection of applicants for student internships."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 630 CHAPTER 968

AN ACT TO CREATE THE LEGISLATIVE COMMISSION ON MEDICAL COST CONTAINMENT.

Whereas, the General Assembly of North Carolina is currently faced with large cost increases in the State's Medicaid Program in the 1977-1979 biennium; and

Whereas, the problem of rising Medicaid costs has been compounded by severe management problems within the program; and

Whereas, rising costs of Medicaid coverage for the State's poor have been paralleled by increases in the cost of health insurance coverage for employees in the public and private sector; and

Whereas, the General Assembly of North Carolina believes that the spiraling costs of health care imperils the continued access to appropriate medical services by all citizens of the State; and

Whereas, the General Assembly recognizes that while certain short-range options may be exercised during this legislative session no plan exists to deal with the broader issue of rising health care costs for all citizens of the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the Legislative Commission on Medical Cost Containment.

Sec. 2. Duties of the commission. The commission shall study the present health care system in North Carolina and the cost trends associated with that system. The commission shall review North Carolina's Medicaid program and the cost trends associated with that program. The commission shall review medical cost containment programs that have been established in North Carolina and in other states. In the course of its hearings the commission shall receive testimony from consumers, providers of medical services, or their representative State agencies involved in the delivery and the regulation of medical services, representatives of the health insurance industry, and representatives of private industry.

In its reports the commission shall make recommendations on cost containment options for the State's Medicaid program, and any other medical service or reimbursement programs operated by the State. The commission shall also make recommendations on medical cost containment proposals that will impact on all people of the State of North Carolina.

Sec. 3. Organization of the commission.

(a) The commission shall consist of six members appointed by the President of the Senate from that body and six members appointed by the Speaker of the House of Representatives from that body. The members of the commission shall be appointed within 30 days of ratification of this act and they shall serve until termination of the commission.

(b) If a vacancy occurs in the membership of the commission, it shall be filled by action of the officer who appointed the former member who is to be replaced, and the person then appointed shall serve for the remainder of the term of the member whom he succeeds.

(c) The Speaker of the House of Representatives and the President of the Senate shall appoint cochairman for the commission.

Sec. 4. Staff support for the commission. In executing its duties the commission is authorized to hire such professional assistance and secretarial support as it deems necessary. The commission is also authorized to utilize the staff of the Fiscal Research Division and the General Research Division as it deems appropriate. Commission members are authorized to receive subsistence and mileage at the statutory rates in lieu of compensation.

Sec. 5. Appropriations to the commission. There is hereby appropriated to the General Assembly for the Legislative Commission on Medical Cost Containment from the General Fund of the State fifteen thousand dollars ($15,000) in fiscal year 1977-78. These funds shall be used in the performance of the duties set forth in this act.

Sec. 6. Reports by the commission. The commission shall file an interim report with the President of the Senate and the Speaker of the House of Representatives by April 1, 1978. The commission shall file its final report with the President of the Senate and the Speaker of the House of Representatives by April 1, 1979. The final report of the commission shall summarize the information obtained in the course of its inquiry, set forth any findings and conclusions, and recommend such administrative actions or legislative actions that may be necessary to contain rising medical costs. If legislation is recommended, the commission shall prepare and submit with its report appropriate bills. Upon termination of the commission, the chairman shall transmit to the Legislative Library for preservation the records and papers of the commission. The commission shall terminate upon the filing of its report.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 633 CHAPTER 969

AN ACT TO AMEND G.S. 7A-69 TO AUTHORIZE INVESTIGATORIAL ASSISTANTS IN CERTAIN JUDICIAL DISTRICTS TO MAKE AN APPROPRIATION THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-69, as the same is set out in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by rewriting the first sentence to read as follows:

"The district attorney in the third, fourth, seventh, tenth, eleventh, twelfth, fourteenth, fifteenth-A, sixteenth, eighteenth, twentieth, twenty-first, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth and thirtieth judicial districts is entitled to one investigatorial assistant to be appointed by the district attorney and to serve at his pleasure."

Sec. 2. There is hereby appropriated from the General Fund to the Judicial Department the sum of one hundered thirty-four thousand six hundred and ninety-four dollars ($134,695) for each fiscal year of the 1977-1979 biennium for an additional investigatorial assistant in the following judicial districts: four, seven, eleven, fifteen-A, sixteen, twenty-five, twenty-nine, and thirty.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 643 CHAPTER 970

AN ACT TO APPROPRIATE FUNDS FOR MOUNTAIN GATEWAY MUSEUM.

Whereas, with funds raised from private sources and supplemented by appropriations of the General Assembly, the Mountain Gateway Museum, in Old Fort, McDowell County, has been open to the visiting public for six years now, and over 15,000 people have visited including several thousand school children; and

Whereas, from a grant from the emergency and contingency fund, an old log house has been moved, refurbished, and is now ready to house part of the Zieman Collection that was given to the State of North Carolina several years ago and is now on loan to the Mountain Gateway Museum; and

Whereas, the 1975 Session appropriated additional funds for needed exhibits, completion of an educational movie, changing exhibits in the museum, and the moving and repairing of an additional log house to house the rest of the Zieman Collection, which has now been accomplished; and

Whereas, additional funds are needed to purchase two houses and lots located next to the museum for protection of the museum and also for future development and enlargement; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the State Department of Cultural Resources, Archives and History Division, to be expended for the acquisition of houses and lots, the sum of twelve thousand five hundred dollars ($12,500) for fiscal year 1977-78, and the sum of twelve thousand five hundred dollars ($12,500) for fiscal year 1978-79.

Sec. 2. This sum is to be expended under the rules and regulations prescribed by the State Department of Cultural Resources.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 654 CHAPTER 971

AN ACT TO APPROPRIATE FUNDS TO NORTH CAROLINA STATE UNIVERSITY FOR DEVELOPMENT AND RESEARCH ON A SOLAR THERMAL CONVERSION UNIT WHICH WILL PRODUCE A MINIMUM OF 1,000 KWH OF ELECTRICITY PER MONTH, AND BE RELIABLE AND RELATIVELY FREE OF MAINTENANCE.

Whereas, the State of North Carolina, with its outstanding universities, colleges and research facilities, is a recognized leader in the development and dissemination of knowledge; and

Whereas, solar energy is the world's most abundant and renewable energy resource; and

Whereas, the business climate and public welfare of this State would greatly benefit from the development of a unit which would produce at least 1,000 KWH of electricity per month and would be practical for usage by a residence or business, also be reliable and relatively free from maintenance and be of a size and cost to encourage its use by home owners and businesses; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the School of Engineering and the School of Design of North Carolina State University for fiscal year 1977-78 the sum of seventy-five thousand dollars ($75,000) and the sum of fifty thousand dollars ($50,000) for fiscal year 1978-79 for the purpose of development and research on a solar thermal conversion unit which will produce a minimum of 1,000 KWH of electricity per month, operating as much as possible independent of any outside energy source, be reliable and relatively free of maintenance. This money is to be used to continue research and development of solar systems and funded in the 1975-1977 biennium by Chapter 911 of the 1975 Session Laws. Such research and development is to be funded in a manner consistent with the purposes set forth in the preamble to this act.

Sec. 2. North Carolina State University is hereby authorized to spend a portion of the funds herein appropriated to design, construct and display at the North Carolina State Fair a solar thermal conversion unit for the purpose of demonstrating and encouraging the use of solar energy.

Sec. 3. North Carolina State University is hereby authorized to apply for, obtain and spend any federal grants of funds available from the federal government for use in a manner consistent with the purposes herein designated.

Sec. 4. North Carolina State University is hereby authorized to apportion the funds herein appropriated, and any matching federal funds obtained as authorized herein, among the School of Engineering and its departments, the School of Design and its departments, and any joint projects between those two schools, in any manner consistent with the purposes herein designated.

Sec. 5. All expenditures made from the funds appropriated by this act and for the purposes herein designated shall be accounted for and reported according to the fiscal and financial system of the agencies to whom the appropriations are made as herein set forth.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 674 CHAPTER 972

AN ACT DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY PUBLIC SCHOOL EMPLOYEES' SALARIES, AND OTHER MATTERS.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 *et seq.*, shall make a thorough study of adequate salaries for public school employees, and the commission shall recommend adjustments in the salary index schedule for public school employees.

Sec. 2. The commission shall study the authorization for, and use of, office and clerical personnel within the public school system including: the current methods of funding personnel positions, the optimum ratio of office and clerical personnel to the number of students within the system, and the job descriptions necessary in school systems of various sizes. (Originated in S.J.R. 896.)

Sec. 3. The commission shall study the advisability of using State funds to provide trained and qualified attendance counselors to local education agencies including: the ratio of counselors to students, minimum educational standards, certification requirements, rate of pay, and function of attendance counselors. (Originated in H.B. 981.)

Sec. 4. The commission shall study the financing, the benefits, and the operations of the Law Enforcement Officers' Benefit and Retirement Fund (including the Basic Benefit Fund and other funds) and the Firemen's Pension Fund. The commission shall further examine:

(1) providing a permanent plan to require employer's participation in the LEOBRF to contribute to the Basic Benefit Fund;

(2) transferring the LEOBRF and the Firemen's Pension Fund to the Department of the State Treasurer by a Type II transfer;

(3) alternate methods of funding the LEOBRF and the Firemen's Pension Fund.

Sec. 5. The commission shall report on these subjects on the convening of the 1977 General Assembly, Second Session 1978.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 678 CHAPTER 973

AN ACT TO AMEND THE GENERAL STATUTES TO ALLOW CREDIT FOR PRIOR SERVICE WITH STATE GOVERNMENT BEFORE 1941 FOR MEMBERS OF THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-26(a), as the same appears in the 1975 Cumulative Supplement Volume 3B of the General Statutes, is hereby amended by inserting, immediately following the second paragraph, a new paragraph to read as follows:

"A participating employer may allow prior service credit to any of its employees on account of service, as defined in G.S. 135-1(23), to the State of North Carolina to the extent of such service prior to the establishment of the Teachers' and State Employees' Retirement System on July 1, 1941; provided that employees allowed such prior service credit pay in a total lump sum an amount calculated on the basis of compensation the employee earned when he first entered membership and the employee contribution rate at that time together with interest thereon from year of first membership to year of payment shall be one half of the calculated cost."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 766 CHAPTER 974

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION AND RESTORATION OF THE FRANKLIN HOUSE IN SURRY COUNTY.

Whereas, the Franklin House in Surry County has been acquired by the Surry County Historical Society, Inc., which plans to preserve and restore it as a public facility for the education and enjoyment of the citizens of our State; and

Whereas, the late-Georgian/Federal style Franklin House, which was built ca. 1799 by Gideon Edwards, a prominent citizen in the early history of Surry County, is architecturally significant as the culmination of architectural development in late-eighteenth century/early-nineteenth century northwestern North Carolina; and

Whereas, the Franklin House was for 25 years the home of Meshack Franklin, member of the General Assembly and Council of State, delegate to the constitutional Convention of 1835, and representative in the United States Congress; and

Whereas, Meshack Franklin devoted nearly 20 years to public service for the State of North Carolina during a critical period of the State's history; and

Whereas, Meshack Franklin's education, experience, and prestige made the Franklin House a social, cultural, and literary center for the people of Surry County during his occupancy; and

Whereas, the Surry County Historical Society, Inc., wishes to honor one of its outstanding citizens by preserving and restoring his home; and

Whereas, the Surry County Historical Society, Inc., has already raised approximately sixty thousand dollars ($60,000) of private, local, State, and federal funds and is now in the process of preserving and restoring the Franklin House; and

Whereas, there is a need for funds to continue the restoration of the Franklin House; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of eight thousand five hundred dollars ($8,500), seven thousand five hundred dollars ($7,500) of which will be available to the Surry County Historical Society, Inc., for the purpose of historical research and exterior restoration of the Franklin House, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Surry County Historical Society, Inc., for the project provided an amount of seven thousand five hundred dollars ($7,500) is raised by the Surry County Historical Society, Inc.; and for the 1978-79 fiscal year the sum of thirteen thousand five hundred dollars ($13,500), twelve thousand five hundred dollars ($12,500) of which will be available to the Surry County Historical Society, Inc., for the purpose of beginning interior restoration at the Franklin House, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Surry County Historical Society, Inc., for the project provided an amount of twelve thousand five hundred dollars ($12,500) is raised by the Surry County Historical Society, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 768 CHAPTER 975

AN ACT TO APPROPRIATE FUNDS FOR HISTORIC EDENTON, INC.

Whereas, with funds raised from private sources and supplemented by appropriations of the General Assembly to Historic Edenton, Inc., the Barker House located in the Town of Edenton, Chowan County, the original home of Thomas Barker, who served as North Carolina's London agent from 1764 to 1778, and his wife, Penelope, who according to tradition presided over the signing of the 1774 resolution which supported the General Assembly's stand against British taxation, popularly referred to as the "Edenton Tea Party", has been restored and remodeled for use as a visitors' center and museum; and

Whereas, with funds raised from private sources and supplemented by previous appropriations of the General Assembly, to Historic Edenton, Inc., the Cupola House, also located in Edenton, Chowan County, a national historic landmark, and the oldest serving structure in the Town of Edenton, has also been restored, and is presently serving as a museum; and

Whereas, both of the aforesaid structures have been open to the visiting public for several years, with over 54,504 people having visited from April 1, 1971, to the present, including several thousand school children; and

Whereas, additional funds are needed for restoration to the roofs of both the Barker House and the Cupola House, for restorative painting of both the Barker House and the Cupola House, and for the construction of outbuildings at the Cupola House; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the State Department of Cultural Resources, Archives and History Division, to be expended through Historic Edenton, Inc., for and in connection with the Barker House and the Cupola House, for the fiscal year 1977-1978, ten thousand dollars ($10,000), and for the fiscal year 1978-1979, ten thousand dollars ($10,000), to restore the roofs of and paint said houses, and for the construction of outbuildings to the Cupola House.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 780 CHAPTER 976

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO SUPPLEMENT THE PREVENTIVE DENTAL HEALTH PROGRAM AND SUPPORTIVE SERVICES AND ALSO TO APPROPRIATE OTHER FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES, DIVISION OF HEALTH SERVICES.

Whereas, dental disease is the most prevalent health problem among school children, affecting ninety-five percent (95%); and

Whereas, the average child will experience 15 decayed teeth during school years and sixty-five percent (65%) of the children do not receive professional dental care; and

Whereas, dental disease may present barriers to effective learning; and

Whereas, the 10-year plan for preventive dentistry was presented to the General Assembly during the 1973 and 1975 Sessions and was funded and the additional staff provided by the appropriation have rendered educational and preventive dental services in 18 new counties during the 1973-75 biennium and 10 new counties in the 1975-77 biennium; and

Whereas, the Dental Health Section, Division of Health Services, Department of Human Resources, is operating under the 10-year plan, approved by the North Carolina Dental Society in 1973 and strongly reaffirmed in 1975 and 1977; and

Whereas, if this plan is followed and funds appropriated as called for in the 10-year plan, the amount of dental disease will be significantly reduced by 1983; and

Whereas, the increased funds would keep the disease reducing plan on schedule; and

Whereas, the funds would permit employment of additional public health dental hygienists who would be assigned to counties not now being served; and

Whereas, these added services accruing would involve dental inspections and referral of preschool and school children, community fluoridation, rural school water fluoridation, fluoride supplements such as fluoride mouthrinse programs for preschool and school children, and a strong preventive dental health education program in day care and head start centers, schools, and communities; and

Whereas, the vigorous effort to combat dental caries and periodontal disease, which causes loss of teeth, will decrease the cost of dental care to government and to individuals; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Department of Human Resources, Division of Health Services, in addition to all other appropriated funds, the following amount for the purposes set out below for the 1977-79 biennium:

Public health dental hygienists - one hundred thousand dollars ($100,000) for fiscal year 1977-1978 and one hundred thousand dollars ($100,000) for fiscal year 1978-1979. The funds herein appropriated shall be used to supplement the preventive dental health program and provide for the employment of public health dental hygienists, necessary supplies, equipment, and travel funds.

Sec. 2. There is further appropriated to the Department of Human Resources, Division of Health Services, in addition to all other funds, the sum of eight hundred thousand dollars ($800,000) for fiscal year 1977-1978 and the sum of eight hundred thousand dollars ($800,000) for fiscal year 1978-1979 to be used for the purpose of paying the costs of public health inspection services.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 792 CHAPTER 977

AN ACT TO AUTHORIZE THE STATE BOARD OF ALCOHOLIC CONTROL TO INCREASE THE PERMIT FOR ISSUING A RETAIL LICENSE FEE FROM TWENTY-FIVE DOLLARS TO FIFTY DOLLARS, AND TO INCREASE THE PRICE OF THE WHOLESALE PERMIT FROM TWENTY-FIVE DOLLARS TO ONE HUNDRED DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-39(a) is hereby amended by adding the word "importers" after the word wineries.

Sec. 2. G.S. 18A-39(c) is hereby amended by deleting subdivisions (1) and (2), substituting in lieu thereof the following:

"(1) For an application for a retail permit under the provisions of this section, a fee of fifty dollars ($50.00); provided, that if applications for a malt beverage permit and a wine (fortified or unfortified) permit are filed at the same time for the same location, the total fee shall be fifty dollars ($50.00);

(2) For an application for a new permit under the provisions of this section by reason of the fact that a new manager has been assigned to an establishment for which a permit or permits are presently held, a fee of ten dollars ($10.00); provided, this fee shall not be payable if the new manager has within 30 days of

the time of filing of the application held a permit as the manager of another establishment of the same person;

(3) For an application for a wholesale, importer, brewery, winery, and bottler permit under the provisions of this section, a fee of one hundred dollars ($100.00); provided, that if applications for a malt beverage permit and a wine (fortified or unfortified) permit are filed at the same time for the same location, the total fee shall be one hundred dollars ($100.00)."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 795 CHAPTER 978

AN ACT TO AMEND G.S. 14-71 AND G.S. 14-72 TO MAKE POSSESSION OF STOLEN GOODS UNLAWFUL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section to follow G.S. 14-71 to read as follows:

"§ 14-71.1. *Possessing stolen goods.*—If any person shall possess any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, he shall be guilty of a criminal offense, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing, shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such possessor may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such possessor may be dealt with, indicted, tried and punished in the county where he actually possessed such chattel, money, security, or other thing; and such possessor shall be punished as one convicted of larceny."

Sec. 2. G.S. 14-72(a) is rewritten to read as follows:

"§ 14-72. *Larceny of property; receiving stolen goods or possessing stolen goods not exeeding two hundred dollars in value.*—(a) Except as provided in subsections (b) and (c) below, the larceny of property, the receiving of stolen goods knowing them to be stolen or or the possessing of stolen goods knowing them to be stolen, of the value of not more than two hundred dollars ($200.00) is a misdemeanor punishable under G.S. 14-3(a). In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen."

Sec. 3. G.S. 14-72(c) is rewritten to read as follows:

"(c) The crime of possessing stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony or the crime of receiving stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony, without regard to the value of the property in question."

Sec. 4. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 806 CHAPTER 979

AN ACT TO CREATE A STUDY COMMISSION TO DETERMINE THE BEST METHOD FOR STATE, COUNTIES AND CITIES TO FURNISH LIABILITY INSURANCE COVERAGE FOR LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. Commission created, purpose. There is hereby created a Law Enforcement Officers Liability Insurance Study Commission. The commission shall make a thorough and comprehensive study on any and all aspects of liability insurance for State, county and city law enforcement officers. This study shall include but not be limited to the following:

(1) The desirability and feasibility of providing liability insurance coverage for law enforcement officers to a maximum amount of coverage of one million dollars ($1,000,000) to be provided by the employing agency.

(2) The desirability and feasibility of establishing a State operated fund which would also be available to counties and cities to provide up to one million dollars ($1,000,000) for all full-time law enforcement officers.

(3) The desirability and feasibility of amending the statute of limitations applicable to tort liability of law enforcement officers acting within the scope of their employment.

Sec. 2. Appointment of membership; composition; tenure of office. The commission shall consist of 12 members who shall be appointed as follows: The Speaker of the House of Representatives shall appoint three members from the membership of the House of Representatives. The Lieutenant Governor shall appoint three members from the membership of the State Senate. The Governor shall appoint three members from the insurance industry and three members who are law enforcement officers. The members shall serve until the termination of the commission. If a vacancy occurs in the membership, the appointing authority shall appoint another person to serve until the termination of the commission. Members of the commission shall take office upon their appointment. The commission shall terminate upon the filing of a report with the General Assembly.

Sec. 3. Duty to report. The commission shall submit a written report and recommendations to the General Assembly on or before March 1, 1978.

Sec. 4. Organization of commission; employment of professional and clerical staff. The members of the commission shall elect one of their members as chairman and one of their members as vice-chairman. The chairman shall preside at all meetings of the commission and in his absence the vice-chairman shall act as chairman. The commission is authorized to employ such professional and clerical staff and assistants as are necessary in the performance and execution of its duties from such funds as shall be made available for this purpose.

Sec. 5. Compensation and reimbursement of members. (a) Legislative members of the commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1 from funds available to the commission.

(b) The members of the commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-5 from funds available to the commission.

(c) The members of the commission who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rates set out in G.S. 138-6 from funds available to the commission.

Sec. 6. State departments and agencies to cooperate. Upon request of the commission, State departments and agencies shall provide the commission with any information and assistance that the commission shall deem helpful to its inquiry.

Sec. 7. There is hereby appropriated to the Law Enforcement Officers Liability Insurance Study Commission from the General Fund the sum of twenty thousand dollars ($20,000) for fiscal year 1977-78.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 812 CHAPTER 980

AN ACT TO APPROPRIATE FUNDS FOR THE TAR HEEL JUNIOR HISTORIAN ASSOCIATION.

Whereas, the heritage of North Carolina plays an integral part in the lives and attitudes of the citizens of the State; and

Whereas, there is a wealth of historical material in each community; and

Whereas, it is important that the youth of North Carolina be informed and instructed regarding our common heritage; and

Whereas, the Tar Heel Junior Historian program, administered by the Division of Archives and History, affords opportunities for young people to learn history firsthand and participate in the preservation of that history, particularly at the local level that is often otherwise neglected; and

Whereas, the program provides successful teaching techniques and much-needed basic educational materials on State history to teachers, librarians, and students; and

Whereas, the junior historian movement was established by the General Assembly on April 22, 1953; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-1978 fiscal year the sum of ten thousand dollars ($10,000), and for the 1978-1979 fiscal year the sum of ten thousand dollars ($10,000), for conducting and broadening a statewide Tar Heel Junior Historian program.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 842 **CHAPTER 981**

AN ACT AUTHORIZING STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, COMMUNITY COLLEGES, INDUSTRIAL EDUCATION CENTERS AND TECHNICAL INSTITUTES TO PERMIT NORTH CAROLINA RESIDENTS AT LEAST SIXTY-FIVE YEARS OF AGE TO ATTEND CLASSES WITHOUT PAYMENT OF TUITION.

The General Assembly of North Carolina enacts:

Section 1. As used in this act, "tuition" shall mean the amount charged for registering for a credit hour of instruction and shall not be construed to mean any other fees or charges or costs of textbooks.

Sec. 2. State-supported institutions of higher education, community colleges, industrial education centers and technical institutes, shall permit legal residents of North Carolina who have attained the age of 65 to attend classes for credit or noncredit purposes without the required payment of tuition; provided, however, that such persons meet admission and other standards deemed appropriate by the educational institution, and provided further that such persons shall be accepted by the constituent institutions of the University of North Carolina only on a spaces available basis.

Sec. 3. The Board of Governors of The University of North Carolina and the State Board of Education shall each, with respect to the institutions governed by it, promulgate rules and regulations necessary for the implementation of the provisions of this act.

Sec. 4. Persons attending classes under the provisions of this act, without payment of tuition, shall be counted in the computation of enrollment for funding purposes.

Sec. 5. The officials of such institutions charged with administration of this act may require such proof as they deem necessary to insure that the person applying to the institution is eligible for the benefits provided by this act.

Sec. 6. Any applicant who willfully misrepresents his eligibility for the tuition benefits provided under this act, or any person who knowingly aids or abets such applicant in misrepresenting his eligibility for such benefits, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than fifty dollars ($50.00) or imprisoned for not more than 30 days, or both.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 867 **CHAPTER 982**

AN ACT TO APPROPRIATE FUNDS TO IMPROVE NAVIGATION IN BROAD CREEK IN BEAUFORT COUNTY.

Whereas, Broad Creek in Beaufort County is currently a very important recreational boating area which contributes a great deal to the economy of Beaufort County and to the State; and

Whereas, Broad Creek is used by persons residing throughout the State as a center of recreational boating activity, and is a particularly important area for sailboat racing; and

Whereas, the maintenance of recreational boating access facilities is an incentive in attracting industry to the State and in particular to the eastern part of the State; and

Whereas, the current depth of Broad Creek is insufficient to support the type of navigation that is necessary to maintain and support the important recreational boating activity on Broad Creek; and

Whereas, the Beaufort County Board of Commissioners has agreed to sponsor a project to improve navigation in Broad Creek from a point adjacent to the Boy Scouts of America campsite to the now existing channel in the Pamlico River and has secured appropriate State and federal permits authorizing such a project; and

Whereas, the State through the Department of Natural and Economic Resources is authorized to financially participate in joint State-local navigational projects; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources the sum of one hundred fifty thousand dollars ($150,000) for the purpose of improving navigation in Broad Creek in Beaufort County as described in this act.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 880 CHAPTER 983

AN ACT TO AMEND G.S. 95-105 TO PROVIDE A TEN DOLLAR FEE FOR THE PERIODIC INSPECTION OF ELEVATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-105, as it appears in the 1975 Cumulative Supplement to Volume 2C of the General Statutes, is amended by adding the following at the end thereof:

"The North Carolina Department of Labor is hereby authorized to assess and collect a fee of ten dollars ($10.00) for the periodic inspection of elevators, escalators and dumbwaiters."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 905 CHAPTER 984

AN ACT TO PROVIDE FOR USE OF DEPOSITIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 32(a)(4) is rewritten to read:

"(4) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: that the witness is dead; or that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or that

the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting testimony of witnesses orally in open court, to allow the deposition to be used; or the witness is an expert witness whose testimony has been procured by videotape as provided for under Rule 30(b)(4)."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 908 CHAPTER 985

AN ACT TO APPROPRIATE FUNDS FOR NAVIGATION PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund the sum of seven hundred thousand dollars ($700,000) for fiscal year 1978-79 to the Department of Natural and Economic Resources for the purpose of undertaking or financially participating in civil works projects to improve navigation in the inlets, sounds, rivers and other waterways of the State. This appropriation may be expended for navigation projects undertaken or financed by the State alone, or by the State in cooperation with local governments, or by the State in cooperation with agencies of the United States, or by the State in cooperation with local governments and an agency of the United States. The Department of Natural and Economic Resources is authorized to expend up to one hundred thousand dollars ($100,000) of the funds herein appropriated for State participation in the Bear Swamp Watershed Improvement Project. This appropriation is in addition to any other appropriations to the Department of Natural and Economic Resources which can be used for the above purposes.

Sec. 2. The Secretary of the Department of Natural and Economic Resources is authorized to adopt rules and regulations governing the procedures by which the State will participate in navigation projects in cooperation with local governments or agencies of the United States or both. The secretary is directed to adopt regulations setting forth classes of projects which are entitled to different percentages of State participation and setting out criteria for determining which class a particular project falls within. In determining the classes and the criteria for determining which class a project falls within the secretary shall consider whether the project is of statewide, regional, or local significance; the economic benefits of the project; and any other factors which in the discretion of the secretary relate to the percentage of participation which the State should assume. The regulations may also set forth the particular aspects of a project which will not be subject to State financial assistance.

Sec. 3. This appropriation shall be considered a capital outlay which shall not revert to the General Fund at the end of the biennium, but shall continue in effect until fully expended or until July 1, 1985, whichever is sooner.

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 947 **CHAPTER 986**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE PURPOSE OF DEVELOPMENT OF NORTH CAROLINA'S NONPROFIT PROFESSIONAL THEATRES.

Whereas, the Theatre Arts Section of the North Carolina Department of Cultural Resources was created by an act of the General Assembly in 1973; and

Whereas, the State has adopted the slogan, "North Carolina, the State of the Arts"; and

Whereas, the annual appropriation of said section was set at seventy-five thousand dollars ($75,000) to provide economic aid to the established outdoor dramas and the other professional theatres and to encourage the development and support of professional theatre in the State; and

Whereas, the number of outdoor dramas and other professional theatre companies has increased from eight to 18 while the annual appropriation has not been increased; and

Whereas, the two million two hundred twenty-three thousand five hundred dollars ($2,223,500) expended by the nonprofit professional theatres in North Carolina during the past fiscal year represents an economic impact of thirteen million three hundred forty-one thousand dollars ($13,341,000) on the State's economy; and

Whereas, the professional theatre companies attract thousands of tourists to the State annually to view their productions, thereby further increasing money into the State's economy; and

Whereas, all 100 counties in North Carolina receive the service and economic stimulation of the nonprofit professional theatres; and

Whereas, the number of audience members (600,000) attending performances by North Carolina nonprofit professional theatres during the past fiscal year was twice the number of those attending any other single type of cultural attraction; and

Whereas, the nonprofit professional theatre in North Carolina created 855 jobs during the past fiscal year with an annual payroll approaching one million dollars ($1,000,000); and

Whereas, the budgetary shortfall of the nonprofit professional theatre in North Carolina for the past fiscal year was more than nine hundred thousand dollars ($900,000); and

Whereas, the Theatre Arts Section of the North Carolina Department of Cultural Resources has been able to fund only thirty-two percent (32%) of the total grant requests since 1973; and

Whereas, in order to be more economically and culturally viable, the nonprofit professional theatres in North Carolina need increased financial support; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Cultural Resources from the General Fund the sum of two hundred ten thousand dollars ($210,000) for the fiscal year 1977-78, and the sum of two hundred ten thousand dollars ($210,000) for the fiscal year 1978-79, to be used for the further development of North Carolina's nonprofit professional theatres. These funds are in addition to all funds appropriated to the Department of Cultural Resources for any purpose. Of the sums appropriated to the Department of

Cultural Resources by this act, the department shall allocate the sums specified to the indicated dramas according to the table below:

Drama	Allocation for 1977-78	1978-79
The Liberty Cart	$30,000	$30,000
From This Day Forward	10,000	10,000
Waxhaws Historic Festival	10,000	-0-
Flatrock Playhouse and Vagabond	30,000	-0-
N. C. Shakespeare Festival	10,000	10,000
Bath Outdoor Drama	20,000	-0-
Strike at the Wind	10,000	10,000
House in the Horseshoe	20,000	20,000

An organization receiving an allocation under this section by the acceptance of the allocated sums agrees to permit the State Auditor to inspect and audit its financial records.

Sec. 2. Upon the request of the Advisory Budget Commission, the State Auditor shall conduct an audit of the financial records of any organization receiving an allocation under this act and shall report the findings of his audit to the Advisory Budget Commission.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 961 CHAPTER 987

AN ACT TO REGULATE THE NUMBER OF ADULT ESTABLISHMENTS IN ANY ONE BUILDING.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 14 is amended by adding a new Article to read as follows:

"ARTICLE 26A.

"Adult Establishments.

"§ 14-202.10. *Definitions.*—As used in this Article:

(a) 'Adult book store' means a book store having as a preponderance of its publications books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

(b) 'Adult establishment' means an adult book store, adult motion picture theater, adult mini motion picture theater, or a massage business as defined in this section.

(c) 'Adult motion picture theater' means an enclosed building with a capacity of 50 or more persons used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein.

(d) 'Adult mini motion picture theater' means an enclosed building with a capacity for less than 50 persons used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on

matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein.

(e) 'Massage' means the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

(f) 'Massage business' means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.

(g) 'Sexually oriented devices' means without limitation any artificial or simulated specified anatomical area or other device or paraphanalia that is designed in whole or part for specified sexual activities.

(h) 'Specified anatomical areas' means:

(1) less than completely and opaquely covered: a. human genitals, pubic region, b. buttock, or c. female breast below a point immediately above the top of the areola; or

(2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(i) 'Specified sexual activities' means:

(1) human genitals in a state of sexual stimulation or arousal;

(2) acts of human masturbation, sexual intercourse or sodomy; or

(3) fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts.

"§ 14-202.11. *Adult establishments.*—No building, premises, structure, or other facility that contains any adult establishment shall contain any other kind of adult establishment. No building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained shall contain any adult establishment.

"§ 14-202.12. *Violations; penalties.*—Any person who violates G.S. 14-202.11 shall be guilty of a misdemeanor and shall be imprisoned for a term not to exceed three months or fined an amount not to exceed three hundred dollars ($300.00), or both, in the discretion of the court. Any person who has been previously convicted of a violation of G.S. 14-202.11, upon conviction for a second or subsequent violation of G.S. 14-202.11, shall be guilty of a misdemeanor and shall be imprisoned for a term not to exceed six months or fined an amount not to exceed five hundred dollars ($500.00), or both, in the discretion of the court."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 882 CHAPTER 988

AN ACT TO MAKE THE LIEUTENANT GOVERNOR THE CHAIRMAN OF THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-74, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting the first two sentences and by inserting in lieu thereof the following:

"The commission shall consist of 13 members. The President of the Senate, the President Pro Tempore of the Senate, the Speaker Pro Tempore of the

House, and the Assistant Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the commission. The Speaker of the House of Representatives shall appoint four members from the House. The President Pro Tempore of the Senate shall appoint four members from the Senate."

Sec. 2. G.S. 120-75 is rewritten to read as follows:

"§ 120-75. *Organization of the commission.*—The President of the Senate shall serve as chairman of the commission. The Speaker of the House or his designee shall serve as vice-chairman of the commission for a term of one year, beginning on July 1 of each year."

Sec. 3. G.S. 120-78, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting the first sentence and inserting in lieu thereof the following:

"Members of the commission, who are also members of the General Assembly, shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1 for General Assembly members. The President of the Senate shall receive subsistence and travel expenses at the rates set forth in G.S. 138-6."

Sec. 4. Notwithstanding the previous provisions of G.S. 120-74, the terms of any commission members appointed by the President of the Senate shall terminate on July 1, 1977. The President Pro Tempore of the Senate shall make his initial appointments to the commission on or after July 1, 1977, and the terms of members so appointed shall end on January 15, 1979.

Sec. 5. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 988

CHAPTER 989

AN ACT TO AUTHORIZE THE STATE BOARD OF EDUCATION FROM AVAILABLE FUNDS TO THE BOARD TO PROVIDE RESEARCH AND CLERICAL STAFF FOR THE COUNCIL ON EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN AND TRAVEL REIMBURSEMENT.

Whereas, the 1973 Session of the General Assembly created the Council on Educational Services for Exceptional Children for purposes of conducting periodic reviews of programs for exceptional children in the public schools; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. From funds available to the State Board of Education for the 1977-79 biennium, the Board is hereby authorized to use sufficient funds up to a maximum of sixty thousand dollars ($60,000) each year to provide one research position and one clerical position and to provide travel reimbursement to members of the Council.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1004 CHAPTER 990

AN ACT TO APPROPRIATE ADDITIONAL FUNDS TO THE LIBRARY RESOURCES PROGRAM.

Whereas, the public library is an essential educational and cultural institution; and

Whereas, the report of a legislative commission to study library support recommended in 1968 that the General Assembly affirm the principle that all citizens of North Carolina should have available to them adequate modern public library services and facilities, and that it is the responsibility of the State to share with local government the basic cost of reaching these; and

Whereas, the legislative commission recommended that the State should gradually assume equal responsibility for the costs of public library service with annual increases in State grants; and

Whereas, the annual increases have been retarded by recent financial conditions; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to Public Libraries-Subprogram for the fiscal year 1977-78 fifty thousand dollars ($50,000) and for the fiscal year 1978-79 fifty thousand dollars ($50,000) in addition to the amounts specified in J-41 (p.81) Department of Cultural Resources, Library Resources-Program, Services to Public Libraries-Subprogram, General Fund Appropriation.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1017 CHAPTER 991

AN ACT TO ESTABLISH A STATE COUNCIL FOR THE HEARING IMPAIRED AND COMMUNITY SERVICES TO THE HEARING IMPAIRED.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 143B of the General Statutes is hereby amended by adding a new Part to be numbered and designated as follows:

"Part 23.

"North Carolina Council for the Hearing Impaired.

"§ 143B-210. *North Carolina Council for the Hearing Impaired; responsibilities of council.*—There is hereby created the North Carolina Council for the Hearing Impaired of the Department of Human Resources, which shall have the following duties:

(1) to advocate services affecting hearing impaired individuals in the areas of public services, health care, and educational opportunity;

(2) to act as a bureau of information for the hearing impaired to State agencies and public institutions providing health care and educational services to the hearing impaired, to local agencies and programs;

(3) to serve as an advisory body to the Secretary of the Department of Human Resources on the needs of the hearing impaired by preparing an annual report which reviews the status of all State services to the hearing impaired

within North Carolina, and to recommend priorities to the department for the development and coordination of services to this population.

"§ 143B-211. *North Carolina Council for the Hearing Impaired; members.*—(a) The North Carolina Council for the Hearing Impaired shall consist of 18 members as follows: five representatives of the Department of Human Resources to be designated by the Secretary of Human Resources from the areas of health services, mental health services, social services, the North Carolina Schools for the Deaf, and vocational rehabilitation services; one representative of the Department of Public Instruction, to be designated by the Superintendent of Public Instruction, from the area of exceptional children; the Director of the Employment Security Commission, or his designee; one representative of the Department of Administration to be designated by the Secretary of the Department of Administration from the area of special personnel projects; the President of the North Carolina Association of the Deaf, or his designee; the President of the North Carolina Registry of Interpreters for the Deaf, or his designee; the President of the North Carolina Parents Association of the Deaf, or his designee; five additional members who are hearing impaired to be appointed by the Governor from nominations submitted by the North Carolina Association of the Deaf; one member of the North Carolina House of Representatives to be appointed by the Speaker of the House; one member of the North Carolina Senate to be appointed by the President of the Senate. Legislative members shall be appointed for terms of two years. The five hearing impaired members appointed by the Governor and the three representatives of consumer organizations shall serve on the council for terms of four years, provided that members initially appointed, the Governor shall designate two members of the members initially appointed who shall serve terms of five years, two who shall serve terms of four years, two who shall serve terms of three years and two who shall serve terms of two years.

(b) The terms of the members first appointed shall commence July 1, 1977. At the expiration of the term of any member of the council, his successor shall be appointed for a term of four years except for the members of the House and the Senate who shall serve terms of two years.

Vacancies occurring other than by expiration of term in the membership of the council shall be filled by the Governor, the Speaker of the House, the Lieutenant Governor or the appropriate appointing authority. No person shall be eligible to serve more than two successive terms other than the representatives of the above named State agencies.

"§ 143B-212. *North Carolina Council for the Hearing Impaired, chairman; reimbursement of members.*—The chairman of the council shall be designated by the Secretary of Human Resources from the appointed members of the council, and shall hold this office for not more than four years. The council shall meet at the call of the chairperson, but not less than four times a year.

The members of the council shall be reimbursed for actual and necessary expenses incurred in the performance of their duties in accordance with G.S. 138-5.

"§ 143B-213. *North Carolina Council for the Hearing Impaired, State Coordinator; duties.*—(a) There shall be established the position of State Coordinator of Services for the Hearing Impaired who shall be the chief executive officer of the council. The State Coordinator shall be responsible to the Secretary of Human Resources.

(b) The coordinator, with the advice of the council, and as directed by the Secretary of Human Resources shall:

(1) plan and direct the establishment of at least one community service center for the hearing impaired in each of the Department of Human Resources regions in North Carolina, and directly supervise the activities of these centers;

(2) promote accessibility of all governmental services to hearing impaired citizens in North Carolina including those hearing impaired persons with multiple disabilities;

(3) identify agencies, both public and private which provide community services, evaluate the extent to which they make services available to hearing impaired people, and cooperate with the agencies in coordinating and extending these services;

(4) provide for the mutual exchange of ideas and information on services for hearing impaired people between federal, State and local governmental agencies, and private organizations and individuals;

(5) survey the needs of the hearing impaired population in North Carolina, and assist the North Carolina Council for the Hearing Impaired in the preparation of the annual report to the Secretary of Human Resources;

(6) maintain a listing of persons qualified in various types of interpreting, and make this information available to local, State, federal and private organizations;

(7) promote the training of interpreters for the hearing impaired to a level which will enable them to meet national and/or State certification requirements;

(8) serve as an advocate for the rights of hearing impaired people.

(c) In selecting the State Coordinator of Community Services for the Deaf, the Secretary of Human Resources shall select an individual who is fluent in the American sign language of the deaf and shall give consideration and priority to qualified applicants who are hearing impaired.

(d) The Secretary of the Department of Human Resources is authorized to arrange for clerical or other assistance as may be required by the council.

"§ 143B-214. *North Carolina Council for the Hearing Impaired; annual report.*—The North Carolina Council for the Hearing Impaired shall make an annual report to the Secretary of Human Resources, as described in G.S. 143B-210.

"§ 143B-215. *North Carolina Council for the Hearing Impaired; assistance of other agencies.*—The council may request and shall receive from any department, division, board, bureau, commission, or agency of the State or of any political subdivision thereof such assistance and data as might be needed to enable it to properly carry out its activities under this Article.

"§ 143B-216. *North Carolina Council for the Hearing Impaired; plan for community services for hearing impaired.*—The Secretary of Human Resources shall develop a short-range plan during the 1977-1979 biennium for implementing community services for the hearing impaired based upon recommendations of the State Council for the Hearing Impaired. The secretary shall insure that long-range planning is conducted which shall include a description of the locations and geographic service areas for such centers, the personnel needs, and strategies for coordinating service providers at State and local levels having contact with the deaf and hearing impaired population.

"§ 143B-217. *North Carolina Council for the Hearing Impaired; functions of service centers.*—The purposes of community service centers for the hearing impaired shall be as follows:

(1) to inform hearing impaired persons and their families of their rights to services offered locally and to coordinate their referral to the appropriate organization;

(2) to coordinate communication between hearing impaired persons and the desired agency or organization, and to promote the accessibility of community services to hearing impaired persons;

(3) to coordinate the provision of interpreting services to hearing impaired persons in community colleges and technical institutes;

(4) to promote expanded adult educational opportunities for hearing impaired persons in community colleges and technical institutes;

(5) to coordinate the provision of instruction in sign language to persons in community agencies;

(6) to inform interested staff of community and professional organizations about the nature of deafness and the capabilities of hearing impaired persons;

(7) to provide services to families and employers of hearing impaired persons, and to agencies which provide services to the hearing impaired;

(8) to serve as an advocate for the rights and needs of people with hearing impairments, including hearing impaired persons having multiple disabilities (i.e., deaf-blind);

(9) to provide services to hearing impaired persons regardless of income, age, or employability;

(10) to help hearing impaired citizens to become self-sufficient in meeting their needs in the community.

"§ 143B-218. *North Carolina Council for the Hearing Impaired; receipt of monies.*—(a) The Department of Human Resources may receive monies from any source, including federal funds, gifts, grants, and bequests which shall be expended for the purposes designated in this act.

(b) The Secretary of the Department of Human Resources is hereby authorized to designate an existing division with the Department of Human Resources to provide statewide services to the hearing impaired as specified in this Article."

Sec. 2. There is hereby appropriated to the Department of Human Resources, Division of Vocational Rehabilitation, from the General Fund, in addition to all other funds, the sum of sixty-five thousand dollars ($65,000) for fiscal year 1977-78, and one hundred ninety-five thousand dollars ($195,000) for fiscal year 1978-79 for the purpose of implementing the provisions of this act.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1023 **CHAPTER 992**

AN ACT TO PROVIDE THAT MONEY SHALL NOT BE INCLUDED WHEN COMPUTING THE BOND OF A GUARDIAN IF IT IS DEPOSITED IN AN INSURED ACCOUNT AND IT MAY NOT BE WITHDRAWN WITHOUT A COURT ORDER.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of General Statutes Chapter 33 is amended by adding a new section to read as follows:

"§ 33-13.2. *Deposited money; exclusion in computing amount of bond.*— Notwithstanding the provisions of G.S. 33-13, in any proceeding for the determination of the amount of bond to be required of a guardian, whether at the time of the appointment or subsequently, when it appears that the estate of the ward includes money which has been or will be deposited in a bank or banks in this State, or money which has been or will be invested in an account or accounts in an insured savings and loan association or associations upon condition that such money or securities will not be withdrawn except on authorization of the court, the court may, in its discretion, order such money so deposited or so invested and shall exclude such deposited money from the computation of the amount of such bond or reduce the amount of bond to be required in respect of such money to such an amount as it may deem reasonable.

The petitioner for letters of guardianship may deliver to any such bank any such money in his possession or may deliver to any such association any such money in his possession or may allow such bank to retain any such money already in its possession or may allow such association to retain any such money already invested with it; and, in either event, the petitioner shall secure and file with the court a written receipt including the agreement of the bank or association that such money shall not be allowed to be withdrawn except on authorization of the court. In so receiving and retaining such money, the bank or association shall be protected to the same extent as though it had received the same from a person to whom letters of guardianship had been issued.

The term 'account in an insured savings and loan association' as used in this section means any account in a savings and loan association which is insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or by a mutual deposit guaranty association authorized by Article 7A of Chapter 54 of the General Statutes of North Carolina.

The term 'money' as used in this section means the principal of the ward's estate and does not include the income earned by the principal of the ward's estate which may be withdrawn without any authorization of the court."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1058 **CHAPTER 993**

AN ACT TO APPROPRIATE FUNDS FOR THE CONSTRUCTION OF A FORESTRY SERVICE HEADQUARTERS BUILDING IN MACON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, Forest Service Division, in addition to all other appropriations for fiscal year 1978-79, the sum of twenty-six thousand eight hundred dollars ($26,800) to be used to construct a Macon County Headquarters for said division.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1059 **CHAPTER 994**

AN ACT APPROPRIATING FUNDS TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE FOR EXPANSION OF THE ANIMAL DISEASE DIAGNOSTIC LABORATORY IN UNION COUNTY, NORTH CAROLINA, AND APPROPRIATING FURTHER FUNDS FOR THE OPERATION THEREOF.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund of the State to the North Carolina Department of Agriculture, in addition to all other appropriations, the sum of two hundred thousand dollars ($200,000) for the purpose of constructing facilities to be operated by said department as an Animal Disease Diagnostic Laboratory in Union County, North Carolina.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1064 **CHAPTER 995**

AN ACT TO APPROPRIATE FUNDS FOR THE RESTORATION OF BLANDWOOD IN GREENSBORO, NORTH CAROLINA.

Whereas, Blandwood, owned by the John Motley Morehead Memorial Commission, is recognized as one of North Carolina's most historic buildings; and

Whereas, Blandwood in Greensboro was the home of John Motley Morehead, a former North Carolina Governor, and is utilized today as a visitor center, museum and site for civic affairs for citizens of North Carolina; and

Whereas, with the assistance of private citizens, businesses and State and federal grants, the John Motley Morehead Memorial Commission has undertaken the careful restoration, preservation and maintenance of this house and two dependencies or wings for the education and enjoyment of the citizens of North Carolina; and

Whereas, funds are required to continue the restoration of Blandwood and two attached dependencies; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for fiscal year 1977-78, the sum of nine thousand five hundred dollars ($9,500) and for fiscal year 1978-79, the sum of nine thousand five hundred dollars ($9,500) to be used for the restoration of the two dependencies or wings of the main house and the construction of a kitchen in Blandwood.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1068 CHAPTER 996

AN ACT TO PERMIT THE COUNCIL OF STATE TO ALLOCATE FUNDS FROM THE CONTINGENCY AND EMERGENCY FUND TO TAX-EXEMPT OUTDOOR HISTORICAL DRAMAS.

Whereas, "The Lost Colony", the first continuing outdoor historical drama in North Carolina, will this year celebrate its thirty-seventh season of presenting exceptional outdoor historical drama, a tradition begun in 1937;

Whereas, there are now eleven other outstanding outdoor historical dramas which are or are to be produced regularly in North Carolina. They are "Horn in the West", "Unto These Hills", "From This Day Forward", "Sword of Peace", "Listen and Remember", "Strike at the Wind", "Revolution"", "First for Freedom", "The House in the Horseshoe", "The Liberty Cart: A Duplin Story", and "Blackbeard—The Knight of the Black Flag";

Whereas, visitors from near and far have been drawn to these excellent outdoor dramatic productions; and

Whereas, the outdoor historical dramas of this State have enriched immeasurably the cultural life of this State and Nation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 143 of the General Statutes to read as follows:

"ARTICLE 19C.

"Outdoor Historical Dramas.

"§ 143-204.8. *Allotments to outdoor historical dramas.*—(a) Upon the application of an outdoor historical drama corporation or trust, approved by the Secretary of Cultural Resources, the Governor and the Council of State may order an allotment from the Contingency and Emergency Fund of the State not to exceed fifteen thousand dollars ($15,000) a year to that outdoor historical drama corporation or trust to aid in the production of an outdoor historical drama; provided that if that corporation or trust has received State funds from any source whatsoever, including direct appropriations, during a fiscal year the Governor and the Council of State during that year may not order an allotment which, when added to the State funds otherwise received, would exceed fifteen thousand dollars ($15,000). No outdoor historical drama corporation or trust shall, during any one fiscal year, receive both an allotment under this act from the Contingency and Emergency Fund and one from money appropriated to the Department of Cultural Resources for programs funded by the enactment of House Bill 947 of this Session.

(b) An allotment shall only be made under this section upon evidence submitted to the Governor and Council of State by the Secretary of Cultural Resources that during the immediately preceding season of production, the drama was operated at a deficit because of inclement weather or other circumstances beyond the control of the corporation or trust and that contributions or gifts made to the corporation or trust are deductible from net income for income tax purposes under G.S. 105-147(15).

(c) For purposes of this section, an 'outdoor historical drama corporation or trust', means only the following corporations or trust presenting outdoor historical dramas:

Corporation or Trust	Outdoor Historical Drama
Cherokee Historical Association, Incorporated	"Unto These Hills"
The Committee for an Outdoor Drama at Bath, Incorporated	"Blackbeard—The Knight of the Black Flag"
The Duplin Outdoor Drama Society, Incorporated	"The Liberty Cart: A Duplin Story"
Halifax County Historical Association	"First for Freedom"
The Moore County Historical Association, Incorporated	"The House in the Horseshoe"
The Outdoor Theatre Fund Charitable Trust	"From This Day Forward"
"Revolution.", Incorporated	"Revolution."
Roanoke Island Historical Association, Incorporated	"The Lost Colony"
Robeson Historical Drama, Incorporated	"Strike at the Wind"
Snow Camp Historical Drama Society, Incorporated	"Sword of Peace"
Southern Appalachian Historical Association, Incorporated	"Horn in the West"
The Waxhaws Historical Festival and Drama Association	"Listen and Remember"

The above listing of dramas is for informational purposes only and shall not be construed to limit the eligibility of the specified outdoor historical drama corporation or trust to receive allotments under this section.

(d) An outdoor historical drama corporation or trust which has applied for or received an allotment under this section shall permit the State Auditor to inspect and audit its financial records."

Sec. 2. G.S. 147-58 is amended by adding a new subsection to read as follows:

"(24) Upon request of the Council of State, the State Auditor shall conduct an audit of the financial records of an outdoor historical drama corporation or trust, specified in G.S. 143-204.8(c) which has applied for or received an allotment under G.S. 143-204.8(a) for the corporation's or trust's fiscal year preceding the allotment and the fiscal year for which the allotment is made. The State Auditor shall report the findings of these audits to the Council of State and the General Assembly."

Sec. 3. The following laws are repealed: G.S. 143-204 and Chapter 1344 of the 1957 Session Laws.

Sec. 4. There is appropriated from the General Fund to the Contingency and Emergency Fund as a reserve for the purposes of this act the sum of forty thousand dollars ($40,000) for fiscal year 1977-78 and the sum of forty thousand dollars for fiscal year 1978-79.

Sec. 5. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1069 CHAPTER 997

AN ACT TO ESTABLISH A STATE COORDINATOR OF SERVICES FOR VICTIMS OF SEXUAL ASSAULT.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B of the General Statutes is hereby amended by adding a new Part, between Parts 10 and 11, to be designated Part 10A and to read as follows:

"PART 10A.

"Office of Coordinator of Services for Victims of Sexual Assault.

"§ 143B-394.1. *Purpose.*—The ultimate goal of this Article is to establish a network of coordinated public and private services for victims of sexual assault, incorporating existing programs as well as aiding in the development of new programs.

"§ 143B-394.2. *Office created.*—(a) The office of Coordinator of Services for Victims of Sexual Assault is hereby created in the Department of Administration. The office shall be under the direction and supervision of a full-time salaried State employee who shall be designated as the State Coordinator. The State Coordinator shall be appointed by the Secretary of the Department of Administration and shall receive a salary commensurate with State government pay schedules for the duties of this office, or such salary to be set by the State Personnel Board pursuant to G.S. 126-4. Necessary travel allowance or reimbursement for expenses shall be authorized for the State Coordinator in accordance with G.S. 138-6. Sufficient clerical staff shall be provided under the direction of the Secretary of the Department of Administration.

(b) This State coordinator shall have administrative experience and the recommendation of the North Carolina Rape Crisis Association and the North Carolina Council on the Status of Women. If possible, the State coordinator shall have public speaking experience, training in rape crisis intervention and education in a related field.

"§ 143B-394.3. *Duties and responsibilities.*—The duties of the State Coordinator shall include the following:

(1) to establish an office to facilitate and coordinate all programs and services which deal with the victim of sexual assault;

(2) to research the needs of the State and already existing programs for sexual assault services;

(3) to create a liason between public services and private services with which victims of sexual assault normally come in contact;

(4) to be an information clearinghouse on all aspects of sexual assault services;

(5) to develop model programs and training techniques to be used to train medical, legal, and psychological personnel (both in the public and private sectors) who deal with the victims of sexual assault, and to aid in implementing these programs to suit the needs of specific communities;

(6) to be available to aid and advise sexual assault services on operational and functional problems; and

(7) to develop and coordinate a public education program for the State of North Carolina on the phenomenon of sexual assault."

Sec. 2. In addition to any and all other appropriations to the North Carolina Department of Administration, there is hereby appropriated from the General Fund of the State of North Carolina the sum of thirty thousand dollars ($30,000) for fiscal year 1977-78 and the sum of thirty thousand dollars ($30,000) for fiscal year 1978-79 to be used solely to support the office of Coordinator of Services for Victims of Sexual Assault.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1151 CHAPTER 998

AN ACT TO PROMOTE THE ACQUISITION BY THE STATE OF BUILDINGS AND SPACE IN BUILDINGS HAVING HISTORIC, ARCHITECTURAL OR CULTURAL SIGNIFICANCE.

The General Assembly of North Carolina enacts:

Section 1. Article 6, Chapter 146 of the General Statutes is hereby amended by inserting therein a new section to be designated as G.S. 146-23.1 to read as follows:

"§ 146-23.1. *Buildings having historic, architectural or cultural significance.*—In order to promote the use of buildings having historic, architectural or cultural significance, the Department of Administration shall inform the North Carolina Historical Commission of all geographical areas in the State within which the State is actively seeking to lease space for the accommodation of State agencies. Within 60 days of the receipt of such information, the North Carolina Historical Commission shall identify for the Department of Administration all buildings within such geographical areas that (1) are known to be of historic, architectural or cultural significance (including but not limited to buildings listed or eligible to be listed on the National Register established pursuant to 16 U.S.C. 470(a), and (2) which may be suitable, whether or not in need of repair, alteration or addition, for acquisition or lease to meet the public building and space needs of State agencies. In addition, the North Carolina Historical Commission shall furnish the Department of Administration such additional information on the physical condition, usable space, and the nature and approximate costs of necessary historic rehabilitation as the department may request in order for the department to determine whether the acquisition or lease of space in such buildings is feasible and prudent.

In acquiring lease space pursuant to G.S. 146-25.1, the Department of Administration shall give preference to lease proposals involving buildings identified by the North Carolina Historical Commission as having historic,

architectural or cultural significance. Provided, however, that such preference shall be given only when the Department of Administration, after investigation as provided in this Article, determines that such proposal is feasible, prudent and in the best interest of the State, as compared with available alternatives, such determination to include the State's policy to preserve historic buildings."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1299 CHAPTER 999

AN ACT TO INCREASE THE FEE PAID FOR COMMERCIAL FISHING LICENSES BY NONRESIDENTS TO TWO HUNDRED DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-152(c) as the same appears in Volume 3A of the General Statutes is amended by renumbering the present subdivision "(5)" as subdivision "(6)" and by adding a new subdivision (5) as follows:

"(5) Vessels, regardless of length, owned by persons who are not residents of North Carolina, two hundred dollars ($200.00)."

Sec. 2. G.S. 113-152(d) as the same appears in Volume 3A of the General Statutes is amended by adding a new subdivision (3) as follows:

"(3) For vessels owned by persons who are not residents of North Carolina, two hundred dollars ($200.00) in addition to the fee requirement in subdivision (1) above."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1318 CHAPTER 1000

AN ACT TO CLARIFY THE THREE HUNDRED DOLLAR EXEMPTION FOR INDIVIDUALLY OWNED PERSONAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.9 is hereby rewritten to read as follows:

"§ 105-278.9. *General exemption for individually owned household personal property.*—The first three hundred dollars ($300.00) in tax value of household personal property owned by individual persons and used by them for personal purposes shall be exempted from taxation. This exemption shall be limited to three hundred dollars ($300.00) for each household, including the head of the household and all dependents residing therein. Single persons, residing separately from their parents, shall also be entitled to the three hundred dollar ($300.00) exemption for property actually owned by them. For the purpose of this section, the term 'personal purposes' means for personal use and enjoyment and not for the production of income. The term 'household personal property' includes furniture, appliances, furnishings, cooking and eating utensils, lawn equipment and tools, clothing and other personal effects but not motor vehicles, boats or airplanes."

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1412 CHAPTER 1001

AN ACT TO AMEND G.S. 105-275(10) AND (11) TO CLARIFY THE CLASSIFICATION OF PERSONAL PROPERTY STORED IN PUBLIC WAREHOUSES FOR AD VALOREM TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275(10) is hereby rewritten to read as follows:

"(10) Personal property shipped into this State and placed in a public warehouse as intermediate consignee for the purpose of transshipment in its original form or package to the owner's customers either inside or outside the State. No portion of a premises owned or leased by a consignor or consignee, or a subsidiary of a consignor or consignee, shall be deemed to be a public warehouse within the meaning of this subdivision despite any licensing as such. The purpose of this classification is to encourage the development of the State of North Carolina as a distribution center."

Sec. 2. G.S. 105-275(11) is hereby rewritten to read as follows:

"(11) Personal property shipped from a point within this State and placed in a public warehouse as intermediate consignee for the purpose of transshipment in its original form or package to the owner's customers outside the State. No portion of a premises owned or leased by a consignor or consignee, or a subsidiary of a consignor or consignee, shall be deemed to be a public warehouse within the meaning of this subdivision despite any licensing as such. The purpose of this classification is to encourage the development of the State of North Carolina as a distribution center."

Sec. 3. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1505 CHAPTER 1002

AN ACT TO INCREASE THE MOTOR VEHICLE REGISTRATION FEE FOR SUPPORT OF DRIVER EDUCATION PROGRAMS FROM TWO DOLLARS TO THREE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88.1 as the same now appears in the 1975 Cumulative Supplement to Replacement Volume 1C of the General Statutes is hereby amended by substituting the words and numbers "three dollars ($3.00)" for the words and numbers "two dollars ($2.00)" appearing in the fourth and fifth lines, the sixth line and the seventeenth line of the section.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1511 **CHAPTER 1003**

AN ACT TO CHANGE UTILITIES COMMISSION HEARING TRANSCRIPT FEES FROM THIRTY CENTS PER PAGE TO ONE DOLLAR PER PAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-300(9), as it appears in the 1975 Supplement to G.S. Volume 2B, is amended at the beginning of the sentence by changing "thirty cents (30¢)" to "one dollar ($1.00)".

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 96 **CHAPTER 1004**

AN ACT TO INCREASE THE INHERITANCE TAX EXEMPTION APPLICABLE TO SURVIVING SPOUSES TO TWENTY THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-4, as the same appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting from the second line of subsection (b) thereof the words and figures "ten thousand dollars ($10,000)" and substituting therefor the words and figures "twenty thousand dollars ($20,000)".

Sec. 2. This act shall become effective with respect to the estates of decedents dying on and after July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 218 **CHAPTER 1005**

AN ACT TO APPROPRIATE GENERAL FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSES OF PROVIDING SUPPORT TO YOUTH UNLIMITED, INC.

Whereas, Youth Unlimited, Inc., was chartered under the laws of North Carolina in 1968 as a private, nonprofit corporation under the control of a local board; and

Whereas, the 1975 General Assembly appropriated the sum of forty thousand dollars ($40,000) for the support of Youth Unlimited, Inc., for fiscal year 1975-76; and

Whereas, during fiscal year 1975-76 Youth Unlimited, Inc., provided community-based youth services to 80 persons who were either actual or potential juvenile offenders; and

Whereas, the termination of continued State funding will result in the loss or impairment of the quality and effectiveness of this important community-based service; and

Whereas, community-based youth service programs are the State's most valuable asset in terms of diverting youthful offenders from training schools; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources for a grant-in-aid to Youth Unlimited, Inc., the sum of forty thousand dollars ($40,000) for the 1977-78 fiscal year and the sum of forty thousand dollars ($40,000) for the 1978-79 fiscal year for community-based youth service programs.

Sec. 2. Youth Unlimited, Inc., shall meet such licensure and regulatory standards as are considered appropriate by the Department of Human Resources as a conditional provision for funding. Any future request for funding shall be submitted through the Department of Human Resources.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 282

CHAPTER 1006

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA SYMPHONY SOCIETY, INCORPORATED.

Whereas, the North Carolina Symphony has won national acclaim as a major symphony orchestra; and

Whereas, the cost of maintaining the symphony has risen significantly from an annual operating budget of one million four hundred seventy-five thousand dollars ($1,475,000) for fiscal year 1975-76 to one million six hundred eighty thousand dollars ($1,680,000) for fiscal year 1977-78, and an estimated one million eight hundred ninety thousand three hundred ninety-five dollars ($1,890,395) for fiscal year 1978-79; and

Whereas, the annual cost of providing a constant level of educational services has risen from eight hundred thirty-one thousand two hundred forty-eight dollars ($831,248) in 1975-76 to one million eighty-three thousand one hundred ninety-six dollars ($1,083,196) in 1977-78; and

Whereas, the amount of private funds raised for the support of the symphony has risen from thirty-three thousand four hundred ten dollars ($33,410) in 1975-76 to an estimated four hundred thousand dollars ($400,000) in 1977-78 and six hundred thousand dollars ($600,000) in 1978-79; and

Whereas, although a full-scale development program is now in its first year and will continue to grow and build an endowment as a component of the orchestra's financial operation, the North Carolina Symphony cannot continue to operate at an effective level, nor can it survive as a professional orchestra without increased State support; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources for the purpose of a grant-in-aid to the North Carolina Symphony Society, Incorporated, the sum of one hundred forty-five thousand seven hundred fourteen dollars ($145,714) for the fiscal year 1977-78 and the sum of one hundred forty-five thousand seven hundred fourteen dollars ($145,714) for the fiscal year 1978-79.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 291 **CHAPTER 1007**

AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES TO PRESERVE RETIREMENT BENEFITS FOR EMPLOYEES OF THE FORMER CHAPEL HILL TELEPHONE COMPANY AND THE FORMER UNIVERSITY SERVICE PLANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 135 of the General Statutes is amended by inserting a new section G.S. 135-5.2, between G.S. 135-5.1 and G.S. 135-6, to read as follows:

"§ 135-5.2. *Chapel Hill utilities and telephone employees.*—Notwithstanding any other provision to the contrary, all persons employed by Chapel Hill Telephone Company or University Service Plants at the time the Chapel Hill telephone services and utilities services are sold to the Southern Bell Company and Duke Power Company respectively, shall be entitled to retire upon early retirement after 30 years of combined service with the Teachers' and State Employees' Retirement System and either Southern Bell or Duke Power Company. An employee must have had at least five years' service with the Teachers' and State Employees' Retirement System and at least five years with either Southern Bell or Duke Power Company in order to be eligible for benefits under this provision. This provision is in addition to any other retirement benefits or privileges the employee may have under the Teachers' and State Employees' Retirement System."

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 327 **CHAPTER 1008**

AN ACT TO ESTABLISH THE GRASSROOTS ARTS PROGRAM WITHIN THE DEPARTMENT OF CULTURAL RESOURCES AND TO APPROPRIATE FUNDS FOR THIS PROGRAM.

Whereas, North Carolina is a State of strong local communities; and

Whereas, these communities have demonstrated their concern for the quality of life in this State by organizing 75 arts councils and 600 other arts groups whose programs have contributed greatly to the well-being of our people; and

Whereas, these communities have raised considerable private funds but are still not able to meet the growing needs of the people of this State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Department of Cultural Resources shall establish a program to be known as the Grassroots Arts Program, by which funds shall be distributed among the counties of this State for the purpose of assisting the counties in the development of community arts programs. The Grassroots Arts Program shall be established within the "Community Art Development Section" (North Carolina Arts Council) of the Division of the Arts.

Sec. 2. Funds available under the Grassroots Arts Program shall be distributed among the counties on a per capita basis.

Sec. 3. The Department of Cultural Resources shall be authorized to adopt rules and procedures necessary to implement this program and shall adopt standards which must be met by organizations within the counties in order to qualify for funds under the Grassroots Arts Program. The standards adopted shall include, but not be limited to the following:

(1) The organization must show that it exists primarily to aid the arts and that it aids the arts in all its forms including the performing, visual and literary.

(2) The organization must show that its programs are open to the entire community.

(3) The organization must show that it is a nonprofit, tax-exempt corporation, governed by a citizen board which is not self-perpetuating, and that it has been in existence and active for at least one full year.

(4) The organization must show that it can match funds available under the Grassroots Arts Program with public or private funds from within the county in which it is located at a ratio of one-to-one.

Sec. 4. Guided by the standards set out in Section 3 of this act, the board of county commissioners of each county shall designate to the Department of Cultural Resources an organization to serve as its distributing agent for Grassroots Arts Program funds. Upon the approval of the Department of Cultural Resources, the designated organization shall become the official distributing agent for that county and shall remain so until such time as it no longer meets the necessary standards. To receive its per capita funds, the official distributing agent must annually submit to the Department of Cultural Resources for its approval a plan for the expenditure of the funds allotted to that county and must account for the funds after they have been expended. Funds may be used for programming, administrative and operating expenses, and should assist in the total development of the arts within that county.

Sec. 5. Funds for counties without organizations which meet the necessary standards set by the Department of Cultural Resources shall be retained by the department and used for arts programming within these counties. Where feasible, the department shall maintain the same per capita rate for the distribution of funds to these counties and shall require the same matching ratio. No State funds appropriated for the programs set forth in this act shall be used to pay for personnel positions.

Sec. 6. To implement this program, there is hereby appropriated from the General Fund to the Department of Cultural Resources the sum of two hundred thousand dollars ($200,000) for fiscal year 1977-78 and the sum of two hundred thousand dollars ($200,000) for fiscal year 1978-79. No more than five percent (5%) of the funds appropriated herein shall be used for the costs of administration of the Grassroots Arts Program.

Sec. 7. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 428 **CHAPTER 1009**

AN ACT TO AUTHORIZE THE UNIVERSITY SYSTEM, THE STATE BOARD OF EDUCATION AND THE DEPARTMENT OF HUMAN RESOURCES TO REDIRECT FUNDS FOR THE PURPOSE OF DEVELOPING AND IMPLEMENTING A TEACHER-TRAINING PROGRAM FOR EXCEPTIONAL CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. The Board of Governors is directed to develop and implement a teacher-training thrust to prepare teachers for teaching exceptional children in the public schools and institutions. Funds for the implementaion of this thrust are to come from a redirection of appropriated funds to the University system for teacher training and through contractual arrangements with the State Board of Education and the Secretary of Human Resources. The three agencies are authorized to seek transfers of any funds appropriated to them (federal and State) for this purpose.

Sec. 2. These funds shall be allocated by the Board of Governors for (a) the initiation of new and the implementation of existing preservice, inservice campus-based, and field-based training of professional personnel, including teachers working in the regular programs, to work with children with special needs, and (b) a continuation of a statewide planning, evaluation, and staff development capability.

Sec. 3. These funds shall be allocated by the Board of Governors consistent with the development of this statewide capability to the following universities: Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Central University, North Carolina State University, Pembroke State University, The University of North Carolian at Charlotte, The University of North Carolina at Chapel Hill, The University of North Carolina at Greensboro, The University of North Carolina at Wilmington, Western Carolina University, Winston-Salem State University, Atlantic Christian College, Bennett College, Duke University, Greensboro College, Lenoir Rhyne College, Sacred Heart College, Salem College, Shaw University and St. Andrews Presbyterian College.

Sec. 4. The General Assembly requests that the Board of Governors report to the Commission on Children with Special Needs not later than February 1, 1979, on the accomplishments of the board in terms of meeting the special education and related requirements.

Sec. 5. The General Assembly further requests that the report contain the results of a joint planning effort between the Board of Governors, the Departments of Public Instruction, Correction, and Human Resources, and the institutions of higher education, which addresses the preparation of the professional personnel necessary for meeting the special needs by both the public and private education sectors over the next five years.

Sec. 6. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 436 **CHAPTER 1010**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO BE USED FOR THE DEVELOPMENT OF COMMUNITY-BASED ALTERNATIVES TO TRAINING SCHOOLS.

Whereas, the 1975 General Assembly enacted House Bill 456 to encourage the development of community-based alternatives to training schools; and

Whereas, 93 counties have indicated their willingness to develop community-based alternatives; and

Whereas, rapid development of community-based alternatives is in the best interest of the child, the community, and the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Department of Human Resources, departmental administration, for community-based alternatives to training schools the sum of five hundred thousand dollars ($500,000) in fiscal year 1977-78, and the sum of five hundred thousand dollars ($500,000) in fiscal year 1978-79.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 448 **CHAPTER 1011**

AN ACT TO AMEND ARTICLE 7 OF CHAPTER 110 OF THE GENERAL STATUTES ENTITLED "DAY-CARE FACILITIES" TO CHANGE THE PENALTY FOR VIOLATION AND TO PROVIDE ASSISTANCE IN THE SUPPRESSION OF UNLICENSED DAY-CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-104 is to be amended by deleting the period after the word "violated" and adding the words "or when a day-care facility is operating without a license."

Sec. 2. Article 7 of Chapter 110 of the General Statutes is hereby amended by adding the following new section following G.S. 110-90:

"§ 110-90.1. *Qualification for staff in a day-care plan.*—No day-care plan shall be registered if that plan is operated by or employs any person who has been convicted of a crime involving child abuse, child neglect, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotics or other impairing drugs, or who is mentally retarded or mentally ill to an extent that may be injurious to children."

Sec. 3. G.S. 110-102 is to be amended by rewriting it to read as follows:

"§ 110-102. *Information for parents.*—The Secretary of Administration shall provide to each operator of a day-care facility a summary of this Article for the parents, guardian, or full-time custodian of each child receiving day care in the facility to be distributed by the operator. The summary shall include the name and address of the Secretary of Administration and the address of the commission."

Sec. 4. G.S. 110-91(1) is hereby amended by inserting in the second paragraph between the words "physician" and "prior" the words "or his authorized agent who is currently approved by the North Carolina Board of Medical Examiners."

Sec. 5. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 477 CHAPTER 1012

AN ACT TO PROVIDE THAT THE PROCEEDS FROM THE SALE OF STATE PARK LANDS SHALL BE DEPOSITED WITH THE STATE TREASURER TO THE CREDIT OF THE DEPARTMENT OF ADMINISTRATION TO BE USED FOR THE PURCHASE OF PARK LANDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-30 is hereby amended to add at the end thereof the following sentence:

"Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Natural and Economic Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as approved by the Director of the Budget and the Advisory Budget Commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 517 CHAPTER 1013

AN ACT TO AUTHORIZE THE STATE BOARD OF EDUCATION TO USE FUNDS APPROPRIATED TO THE BOARD FOR PUPIL TRANSPORTATION FOR PURPOSES OF PROVIDING TRANSPORTATION SERVICES TO CHILDREN WITH SPECIAL NEEDS.

Whereas, the Second Session of the 1974 General Assembly enacted G.S. 115-11.1 which required the State Board of Education to provide transportation services to autistic and communications-handicapped and deaf and blind children but did not provide an appropriation therefor; and

Whereas, a legislative commission has determined that the provision of transportation services to only the above identified children denies appropriate and needed transportation services to other children with special needs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The State Board of Education is hereby authorized to use funds already appropriated to the board for pupil transportation to provide transportation services to children with special needs.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 526 **CHAPTER 1014**

AN ACT TO APPROPRIATE SEVENTY-THREE THOUSAND DOLLARS FOR PLANNING OF A FAMILY MEDICINE BUILDING AT UNC-CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Board of Governors of The University of North Carolina, in addition to all other appropriations, the sum of seventy-three thousand dollars ($73,000) for the fiscal year 1978-79, to be expended for design, planning and associated costs of a Family Medicine Building for the Medical School of The University of North Carolina at Chapel Hill.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 531 **CHAPTER 1015**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR FISCAL YEARS 1977-1979 TO BE USED TO INCREASE THE FOSTER-CARE BOARD RATE.

Whereas, county departments of social services place approximately 10,000 needy children each year in foster care; and

Whereas, it is difficult to recruit and retain foster home resources without the support of an adequate board rate; and

Whereas, the foster-care board rate was last raised in July 1973; and

Whereas, additional State funds are needed to increase the foster-care board rate from one hundred dollars ($100.00) to one hundred fifteen dollars ($115.00) per month for fiscal year 1977-1978 and to one hundred twenty-five dollars ($125.00) per month for fiscal year 1978-1979; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. In addition to any and all other appropriations to the North Carolina Department of Human Resources, there is hereby appropriated from the General Fund of the State of North Carolina the sum of three hundred ninety-seven thousand four hundred seventy-two dollars ($397,472) for fiscal year 1977-1978 and the sum of six hundred sixty-two thousand four hundred fifty-two dollars ($662,452) for fiscal year 1978-1979 to be used to increase the foster-care board rate in accordance with the provisions of G.S. 108-66.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1002 CHAPTER 1016

AN ACT TO OUTLAW CARRYING WEAPONS INTO ASSEMBLIES AND ESTABLISHMENTS WHERE INTOXICATING LIQUORS ARE SOLD AND CONSUMED.

The General Assembly of North Carolina enacts:

Section 1. Article 35 of General Statutes Chapter 14 is amended to add the following new section:

"§ 14-269.3. *Carrying weapons into assemblies and establishments where intoxicating liquors are sold and consumed.*—(a) It shall be unlawful for any person to carry any gun, rifle, or pistol into any assembly where a fee has been charged for admission thereto, or into any establishment in which intoxicating liquors are sold and consumed. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in the discretion of the court by fine or imprisonment or by both.

(b) This section shall not apply to the following:

(1) a person exempted from the provisions of G.S. 14-269;

(2) the owner or lessee of the premises or business establishment;

(3) a person participating in the event, if he is carrying a gun, rifle, or pistol with the permission of the owner, lessee, or person or organization sponsoring the event; and

(4) a person registered or hired as a security guard by the owner, lessee, or person or organization sponsoring the event."

Sec. 2. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 608 CHAPTER 1017

AN ACT TO APPROPRIATE FUNDS TO RENOVATE THE WESTERN CAROLINA SPECIALTY HOSPITAL AT BLACK MOUNTAIN.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1978-1979 for the purpose of renovating the Western Carolina Specialty Hospital at Black Mountain, North Carolina.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 624

CHAPTER 1018

AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT THE "SUNSET LAW FOR STATE AGENCIES".

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the General Assembly to be administered by the Legislative Services Office the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1977-78 and two hundred thousand dollars ($200,000) for fiscal year 1978-79, to implement the provisions of Ratified Chapter 712 of the 1977 Session Laws (SB 334: "A bill to be entitled an act to establish a system for the periodic review and for the termination, continuation, or reestablishment of certain licensing and regulatory agencies.").

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 630

CHAPTER 1019

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES TO CREATE AND MAINTAIN TWO EXHIBITS OF PORTRAITS OF NORTH CAROLINA GOVERNORS ELECTED BY THE PEOPLE, ONE TO BE BASED IN THE STATE CAPITOL, AND ONE TO BE MADE AVAILABLE FOR CIRCULATION THROUGHOUT THE STATE FOR EDUCATIONAL PURPOSES.

Whereas, Governors of North Carolina have been elected by the people, beginning with Governor Edward B. Dudley up to the present time; and

Whereas, these Governors, coincidentally, also are the same ones who have served in the State Capitol since its completion in 1840; and

Whereas, there exist no exhibits or displays which list these Governors collectively, show their likenesses, and summarize the major consequences of their terms; and

Whereas, such exhibits will not only honor the elected Governors, but also will be of great educational value to the more than 100,000 annual visitors to the newly restored State Capitol and to thousands of other citizens who will view the exhibit circulated to various points in the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of twenty-one thousand seven hundred dollars ($21,700) and for the 1978-79 fiscal year the sum of one thousand dollars ($1,000) for researching, designing, constructing, maintaining, and circulating two exhibits of portraits of North Carolina Governors elected by the people.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 637 **CHAPTER 1020**

AN ACT TO APPROPRIATE FUNDS FOR THE CONSTRUCTION OF A DIVISION OF FOREST RESOURCES HEADQUARTERS BUILDING IN ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, Division of Forest Resources, in addition to all other appropriations, for fiscal year 1977-78, the sum of twenty thousand dollars ($20,000) to be used to construct an Alamance County headquarters for said division.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 648 **CHAPTER 1021**

AN ACT TO AMEND THE BICYCLE AND BIKEWAY ACT OF 1974 TO FURTHER PROVIDE FOR THE PROMOTION, ADMINISTRATION, AND REGULATION OF BICYCLE AND BIKEWAY ACTIVITIES IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Article 4A of Chapter 136 of the General Statutes of North Carolina is hereby amended as follows:

(1) By adding a new subdivision (5) to G.S. 136-71.7 to read as follows:

"(5) Secretary. The Secretary of the North Carolina Department of Transportation."

(2) By adding the following sentence at the end of G.S. 136-71.8:

"The General Assembly also finds that bikeways are a bona fide highway purpose, subject to the same rights and responsibilities, and eligible for the same considerations as other highway purposes and functions."

(3) By adding a new section to read and be designated as follows:

"§ 136-71.13. *North Carolina Bicycle Committee, composition, meetings, and duties.*—(a) There is hereby created a North Carolina Bicycle Committee within the Department of Transportation. The bicycle committee shall consist of seven members appointed by the secretary. Members of the committee shall receive per diem and necessary travel and subsistence expense in accordance with the provisions of G.S. 138-5. Initially, three members shall be appointed for two years, and four members for four years; thereafter each appointment shall be for four years. Upon the resignation of a member in midterm, the replacement shall be appointed for the remainder of the unexpired term. The secretary shall make appointments to the committee with a view to providing representation to each of the State's geographical regions and to the various types of bicycle users and interests.

(b) The bicycle committee shall meet in various sections of the State, not less than once in any three months, and at such other times as may be necessary to fulfill its duties. A majority of the members of the committee shall constitute a quorum for the transaction of business. The staff of the bicycle and bikeway program shall serve the committee, maintain the minutes of committee meetings, research questions of bicycle transportation importance, and

undertake such other activities for the committee as may be consistent with the program's role within the department.

(c) The bicycle committee shall have the following duties:

(1) to represent the interests of bicyclists in advising the secretary on all matters directly or indirectly pertaining to bicycles and bikeways, their use, extent, location, and the other objectives and purposes of this Article;

(2) to adopt bylaws for guiding its operation, as well as an outline for pursuing a safer environment for bicycling in North Carolina;

(3) to assist the bicycle and bikeway program in the exercise of its duties within the department; and

(4) to promote the best interests of the bicycling public, within the context of the total transportation system, to governing officials and the citizenry at large.

(d) The secretary, with the advice of the bicycle committee, shall coordinate bicycle activities among the divisions of the department, as well as between the Department of Transportation and the other departments. Further, he shall study bicycle and bikeway needs and potentials and report the findings of said studies, with the committee's recommendations, to the appropriate policy or legislative bodies. The secretary shall transmit an annual report to the Governor and General Assembly on bicycle and bikeway activities within the department, including a progress report on the implementation of this Article."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 656 **CHAPTER 1022**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION TO AID THE CITY OF RALEIGH IN THE CONSTRUCTION OF A MALL FROM THE STATE CAPITOL TO THE PROPOSED RALEIGH CIVIC CENTER PLAZA.

Whereas, the sum of two hundred twenty-five thousand dollars ($225,000) was appropriated by the 1975 General Assembly to the City of Raleigh for the construction of a mall from the State Capitol to the proposed Raleigh Civic Center Plaza; and

Whereas, an additional three hundred seventy-five thousand dollars ($375,000) is necessary to complete this Raleigh mall; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Administration the sum of two hundred fifty thousand dollars ($250,000) for fiscal year 1977-78, and one hundred twenty-five thousand dollars ($125,000) for fiscal year 1978-79 to aid the City of Raleigh in the construction of a mall from the State Capitol to the proposed Raleigh Civic Center Plaza.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 677 **CHAPTER 1023**

AN ACT TO APPROPRIATE FUNDS FOR THE REHABILITATION OF THE ROANOKE CANAL LOCK HOUSE IN ROANOKE RAPIDS.

Whereas, river transportation was vital in the settlement and growth of North Carolina; and

Whereas, the Roanoke River played a major role in the economic and technological progress of the Roanoke Valley and Southside Virginia; and

Whereas, the navigation canal in Halifax County was constructed by the Roanoke Navigation Company in the 1820's and successfully stimulated trade for more than 20 years until the coming of the railroad; and

Whereas, the canal was utilized as a source of water power for both manufacturing and utilities services in the Roanoke Rapids-Weldon area during the late nineteenth and early twentieth centuries; and

Whereas, two brick structures adjacent to the double locks on the canal remain as vestiges of the efforts to advance the industrial and technological capacities of the region; and

Whereas, there is left in North Carolina only a small number of visible reminders of the role played by waterways in the history and development of the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the fiscal year 1977-78 the sum of ten thousand dollars ($10,000) which will be available to the Halifax County Arts Council for the purpose of a phased program of (1) research, (2) planning, and (3) rehabilitation of the Roanoke Canal Lock building provided an amount of ten thousand dollars ($10,000) is raised and certified by the Halifax County Arts Council for the same purpose; and for the 1978-79 fiscal year the sum of ten thousand dollars ($10,000) which will be available to the Halifax County Arts Council for rehabilitation of the Roanoke Canal Lock building provided an amount of ten thousand dollars ($10,000) is raised and certified by the Halifax County Arts Council for the same purpose. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 683 **CHAPTER 1024**

AN ACT TO PROVIDE PAYMENT FOR INJURIES SUSTAINED BY PUPILS IN SCHOOL BUS ACCIDENTS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Justice the sum of seventy thousand dollars ($70,000) for the fiscal year 1977-78 for the purpose of settling claims by injured pupils arising out of school bus accidents. Claims may be paid out of the settlement funds appropriated by this act notwithstanding any provision of law to the contrary; provided, however, that no claim shall be paid unless a release is executed

whereby all further claims against the State in behalf of the injured pupil are relinquished.

Sec. 2. This act shall become effective upon ratification, and it shall apply to injuries sustained during 1976-77, and subsequent fiscal years.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 708 CHAPTER 1025

AN ACT TO EXCLUDE FROM INHERITANCE TAXATION THE AMOUNT OF SEVENTY THOUSAND DOLLARS PAID AS A RESULT OF A MILITARY FAMILY PROTECTION, OR SURVIVOR BENEFIT, PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-3 as the same appears in 1972 Replacement Volume 2D is hereby amended by adding thereto a new subdivision (6), reading as follows:

"(6) The amount of seventy thousand dollars ($70,000) only of the total value or proceeds of an annuity or other payment receivable by any beneficiary (other than the executor) under a military family protection, or survivor benefit, plan, or other comparable plan, pursuant to Chapter 73 of Title 10 of the United States Code."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 729 CHAPTER 1026

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO REBUILD BERMS AT WRIGHTSVILLE BEACH IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, in addition to all other funds appropriated to the Department of Natural and Economic Resources, the sum of five hundred twenty-six thousand dollars ($526,000) for the 1977-79 biennium, two hundred sixty-three thousand dollars ($263,000) for the first year of the biennium and two hundred sixty-three thousand dollars ($263,000) for the second year of the biennium, to be used together with the sum of eighty-nine thousand dollars ($89,000) previously appropriated in prior bienniums, which prior appropriation shall not revert to the General Fund, in defraying the costs of rebuilding berms at Wrightsville Beach in New Hanover County.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 732 **CHAPTER 1027**

AN ACT TO PROVIDE FOR THE CONSTRUCTION OF A STATE GOVERNMENT OFFICE BUILDING IN THE CITY OF FAYETTEVILLE.

Whereas, the State currently leases more than 63,000 square feet of office space in Charlotte, and more than 55,000 square feet of office space in Fayetteville; and

Whereas, the consolidation of all State services in one building would tend to increase efficiency and improve the services being provided to the people of these communities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Department of Administration is directed to use up to ninety-five thousand dollars ($95,000) from the Advanced Planning Reserve created in Section 13 of Chapter 681 of the 1977 Session Laws for planning a State office building in the City of Fayetteville.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 740 **CHAPTER 1028**

AN ACT DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE INSURANCE LAWS.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission shall study the insurance laws of the State, examining the effects of the 1977 General Assembly changes in the laws and anticipating other insurance law issues to come before the 1979 General Assembly.

Sec. 2. The Commission shall report the results of its study to the 1979 General Assembly.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 751 **CHAPTER 1029**

AN ACT TO REPEAL CHAPTER 617 OF THE SESSION LAWS OF 1973 AND TO PROVIDE FOR THE TRANSFER OF FACILITIES OF THE NATIONAL DRIVING CENTER, INC., TO THE UNIVERSITY OF NORTH CAROLINA.

Whereas, the General Assembly of 1965 established the Highway Safety Research Center in The University of North Carolina and that Center has been in operation since 1965, deriving about ten percent (10%) of its operating budget from legislative appropriations to The University; and

Whereas, the National Driving Center, Incorporated, was incorporated by the State of North Carolina in 1973 as a private, nonprofit corporation; and

Whereas, the General Assembly in 1973 and 1974 appropriated two hundred ninety-five thousand dollars ($295,000) a year to operate the National Driving Center, Incorporated, for 1973-74 and 1974-75; and

Whereas, the General Assembly in 1973, by Session Laws 1973, Chapter 617, appropriated funds for the purpose of acquiring land in the Research Triangle Park and constructing thereon and equipping facilities to house the National Driving Center, Incorporated; and

Whereas, the General Assembly in 1976 determined that it was desirable that the Highway Safety Research Center and the National Driving Center, Incorporated, be merged to the end that there might be one organization and program in highway safety sponsored or aided by the State, rather than two such organizations and programs; and

Whereas, the General Assembly in 1976, by Session Laws 1975 (Second Session), Chapter 983, Section 57, authorized the Board of Governors of The University of North Carolina to establish a Council on Transportation Research and Education as the policy-making body of the Highway Safety Research Center and an Institute for Transportation Research and Education for the purpose of coordinating and merging the highway safety programs of the Highway Safety Research Center and the National Driving Center and coordinating other highway safety activities of The University of North Carolina, and directed that the Department of Transportation provide to the Board of Governors of The University of North Carolina from the appropriation for the Governor's Highway Safety Program up to one hundred sixty-eight thousand dollars ($168,000) for 1976-1977 as a nonrecurring appropriation to assist in doing these things; and

Whereas, the Board of Governors of The University of North Carolina has established and the President of The University of North Carolina has appointed a Council on Transportation Research and Education and plans have been prepared for an Institute of Transportation Research and Education; the Board of Directors of the National Driving Center, Incorporated, has been reconstituted so that its membership is identical with that of the Council on Transportation Research and Education; the National Driving Center, Incorporated, has been merged functionally with the Highway Safety Research Center; and the assets, personnel, and programs of the National Driving Center, Incorporated, have been transferred to The University of North Carolina; and

Whereas, it is therefore appropriate that the facilities provided by State funds for the National Driving Center, Incorporated, be assigned to The University of North Carolina, so that they may continue to be used for appropriate educational and research purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 617 of the 1973 Session Laws is repealed.

Sec. 2. The land acquired, the building erected, and the furnishings and equipment acquired at State expense for the National Driving Center, Incorporated, pursuant to Session Laws 1973, Chapter 617, are transferred to the Board of Governors of The University of North Carolina. This transfer shall take effect notwithstanding any existing conflicting action or policy of the Department of Administration or of the Council of State, and notwithstanding any existing conflicting provision of law.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 754 **CHAPTER 1030**

AN ACT TO CREATE A COMMISSION TO STUDY THE STATEWIDE SYSTEM OF STATE PARKS AND TO MAKE RECOMMENDATIONS FOR NECESSARY LEGISLATION TO THE 1977-1978 SESSION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created a State Parks Study Commission to be composed of 12 members, four of whom shall be members of the Senate appointed by the Lieutenant Governor, four of whom shall be members of the House of Representatives appointed by the Speaker, and four of whom shall be appointed by the Governor. The members shall elect their chairman.

Sec. 2. The commission shall have as its purpose the study and formulation of recommendations for direction and legislation concerning the entire system of State parks to include such issues as:

(a) State and federal funding,

(b) land aquisition,

(c) personnel classifications within the Division of State Parks,

(d) the development, capacity and operation of existing and proposed parks,

(e) the present and projected needs for and placement of park facilities,

(f) access to park and recreational facilities, and

(g) any other issues consideration of which is deemed by the commission to be essential to the development of an orderly, planned, comprehensive system of State parks and recreational areas.

Sec. 3. The commission shall file a written report of its findings and recommendations with the presiding officer of the House of Representatives and the Senate on or before the tenth day of the 1978 Session of the General Assembly, and shall supplement that report, if necessary, with a further written report filed on or before the tenth day of the 1979 Session. Upon the filing of the latter report, the commission shall terminate.

Sec. 4. The members of the commission shall be paid appropriate per diem and travel expenses as are provided for members of the State boards and commissions generally. There is appropriated from the General Fund to the State Parks Study Commission seven thousand five hundred dollars ($7,500) in fiscal year 1977-78 and seven thousand five hundred dollars ($7,500) in fiscal year 1978-79 to pay the reasonable expenses of the study.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 772 **CHAPTER 1031**

AN ACT TO DETERMINE THE VALUE AND PRACTICALITY OF PROVIDING INCENTIVE PAY FOR STATE EMPLOYEES FOR GAINS IN ECONOMY AND EFFICIENCY IN THE RENDERING OF GOVERNMENTAL SERVICES.

Whereas, private business and industry have long recognized the value of rewarding the outstanding performances of their employees through incentive pay, bonuses and the granting of special benefits and privileges, with the result that productivity is increased and savings are realized; and

Whereas, no such provisions exist for rewarding State employees for outstanding efforts which result in gains in productivity and the elimination of waste; and

Whereas, it is fitting that the State determine, on an experimental basis, the value and practicality of providing such rewards; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 126 of the General Statutes is hereby amended by adding a new Article 10 to read as follows:

"ARTICLE 10.

"Committee for Review of Applications for Incentive Pay for State Employees.

"§ 126-46. There is hereby created the Committee for Review of Applications for Incentive Pay for State Employees, hereinafter referred to as 'the Committee'. The committee shall consist of the Secretary of Administration, who shall act as chairman; the State Auditor; the State Treasurer; the State Budget Officer; the State Personnel Director; the State Purchasing Officer; the Director of the Administrative Analysis Division of the Department of Administration; and the State Disbursing Officer. The Governor, Lieutenant Governor and Speaker of the House of Representatives shall each also appoint one person who has experience in administering incentive as used in industry.

"§ 126-47. With the exception of units within the General Assembly, the Governor's Office, the Lieutenant Governor's Office, the Department of Administration, the Department of the State Treasurer, and the Department of the State Auditor, any unit of State government with an identifiable, self-contained budget may make application to the committee for selection as a candidate for the award of incentive pay to its employees. Such applications must be submitted no later than March 31, 1978, for the fiscal year beginning July 1978, and must have the approval of the head of the State department within which the unit is located.

Applications shall be in the format specified by the committee and shall contain such information as it may require, including but not limited to those evaluation components developed by the applying unit which will provide quantitative measures of program output and performance.

With the assistance of the Administrative Analysis Division of the Department of Administration and the staff of the State Auditor, the committee shall evaluate the applications submitted; and from those proposals which are considered to be reasonable and practical, and which are found to include developed performance indicators which lend themselves to a judgment of success or failure, the committee shall select no more than three units to

participate in the pilot incentive pay program for the fiscal year 1978-79; provided, however, that each selection shall require the affirmative vote of at least six members of the committee.

"§ 126-48. To qualify for the award of incentive pay to its employees, a unit selected must demonstrate to the satisfaction of the committee that it has operated during the 1978-79 fiscal year at less cost than the average of the two immediately preceding fiscal years, and either with an increase in the level of services rendered or with no decrease in the level of services rendered.

The committee shall satisfy itself that the reduction in the cost of operation is real and not merely apparent, and that it is not, in whole or in part, the result of:

(1) chance;

(2) a lowering of the quality of the service rendered, as for example a lowering of quality of food served;

(3) reduced pass-through or transfer expenditures;

(4) receipts realized in excess of amounts budgeted;

(5) nonrecurrence in 1978-79 of expenditures which were single outlay, or one-time expenditures, in either of the two preceding fiscal years;

(6) reductions in the prices of supplies, materials, and equipment used, or reductions in the cost of service contracts;

(7) a lowering of salary requirements as the result of employee turnover;

(8) failure to reward deserving employees through promotion, reclassification, award of merit salary increments, or salary increases authorized by salary range revisions;

(9) postponement of normal purchases and/or repairs to a future fiscal year;

(10) stockpiling inventories in the 1976-77 and 1977-78 fiscal years so as to reduce requirements in the 1978-79 fiscal year;

(11) substitution of federal funds, other receipts, or non-State funds for State appropriations;

(12) unreasonable postponement of payments of accounts payable until the 1979-80 fiscal year;

(13) shifting of expenses to another unit of government, as for example the use of supplies from another unit's inventory;

(14) any other practice, event, or device which the committee decides has caused a distortion which makes it appear that a savings has occurred when in fact the cost reduction is not attributable to the efficiency and economy of the unit.

Conversely, the committee shall consider as legitimate savings those reductions in expenditures made possible by such items as the following:

(1) reductions in overtime;

(2) elimination of consultant fees;

(3) less temporary help;

(4) elimination of budgeted positions;

(5) improved methods of communication;

(6) improved systems and procedures;

(7) better deployment and utilization of manpower;

(8) elimination of unnecessary travel;

(9) elimination of unnecessary participation in national and regional conferences;

(10) elimination of unnecessary printing and mailing;

(11) elimination of unnecessary payments for advertising, memberships, dues, subscriptions, etc.;

(12) elimination of waste, duplication, and operations of doubtful value;

(13) improved space utilization;

(14) any other items considered by the committee as representing true savings.

"§ 126-49. At the conclusion of the 1978-79 fiscal year, the committee shall compare the expenditures for that year of each unit selected against the average expenditures of that unit for the two immediately preceding fiscal years and, after making such adjustments as in its judgment are required to eliminate distortions, shall determine the amount, if any, that the unit has reduced its cost of operations in the 1978-79 fiscal year. If the committee shall also determine that in its judgment there has been no reduction in the level and quality of the services rendered by the unit, it shall award and is hereby authorized to award, with the approval of the Advisory Budget Committee, to the employees of that unit a sum not in excess of twenty-five percent (25%) of the amount determined to be the true cost reduction. The amount awarded shall be divided and distributed in equal shares to the employees of the unit, except that employees who worked for that unit less than the full 12 months of the 1978-79 fiscal year shall receive only a pro rata share based on fraction of the year worked for that unit. The source of funds for this incentive pay shall be the unspent appropriations for the unit which would otherwise have reverted at the end of the 1978-79 fiscal year.

"§ 126-50. The Secretary of Administration shall cause to be prepared and submitted to the General Assembly two comprehensive status reports on the committee's activities, decisions, awards, and recommendations with respect to the employee incentive pay program. The first such report shall be submitted to the 1979 General Assembly no later than February 1, 1979, and shall cover the first half of the 1978-79 fiscal year. If the General Assembly meets in 1980, the second report, covering the entire 1978-79 fiscal year, shall be submitted no later than February 1, 1980; if the General Assembly does not meet in 1980, the second report shall be submitted no later than February 1, 1981."

Sec. 2. The provisions of this act shall become effective July 1, 1977, and shall remain in effect through June 30, 1981.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 775 **CHAPTER 1032**

AN ACT TO ESTABLISH A JOBS FOR VETERANS COMMITTEE WITHIN THE DEPARTMENT OF ADMINISTRATION, DIVISION OF VETERANS AFFAIRS, TO ASSUME THE DUTIES OF THE GOVERNOR'S JOBS FOR VETERANS COMMITTEE AND TO ASSIST VETERANS IN OBTAINING EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 143B, as the same appears in the 1975 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by adding a new Part at the end thereof to read:

"Jobs for Veterans Committee.

"§ 143B-401. *Governor's Jobs for Veterans Committee.*—(a) There is hereby created and established in the North Carolina Department of Administration, Division of Veterans Affairs, a committee to be known as the Governor's Jobs for Veterans Committee, with such members as the Governor shall appoint. Members of the committee shall serve at the pleasure of the Governor. The Secretary of Administration, with the concurrence of the Governor, shall appoint a chairman to administer this committee who shall be subject to the direction and supervision of the secretary. The chairman shall serve at the pleasure of the secretary. The chairman shall devote full time to his duties of office.

(b) Subject to the general supervision of the secretary, the duties of the chairman shall include but not be limited to the following:

(1) serving as a liaison between the Office of the Governor and all State agencies to insure that veterans receive the employment preference to which they are legally entitled and that such State agencies list available jobs with appropriate public employment services;

(2) evaluating existing programs designed to benefit veterans and submitting reports and recommendations to the Governor and secretary;

(3) developing and furthering favorable employer attitudes toward the employment of veterans by appropriate promulgation of information concerning veterans and the functions of the committee;

(4) serving as a liaison between the committee and communities throughout the State to the end that civic committees and volunteer groups are formed and utilized to promote the objectives of the committee;

(5) assisting employers in properly designing affirmative action plans as they relate to handicapped and Vietnam-era veterans;

(6) serving as a liaison between veterans and State agencies on questions regarding the employment practices of such State agencies.

"§ 143B-402. *Authority to receive grants-in-aid.*—The committee is hereby authorized to receive grants-in-aid from the federal government and charitable organizations for carrying out its duties."

Sec. 2. There is hereby appropriated to the Department of Administration, for the chairman and staff of the Governor's Jobs for Veterans Committee, from the General Fund, in addition to all other appropriations which may be made by the 1977 General Assembly therefrom, the sum of twenty-seven thousand dollars ($27,000) for each year of the 1977-1979 biennium. The secretary shall submit to the General Assembly a budget and request for appropriations to adequately administer the Governor's Jobs for Veterans Committee in subsequent fiscal years.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 779 **CHAPTER 1033**

AN ACT TO APPROPRIATE FUNDS FOR THE OPERATION OF THE LEGISLATIVE RESEARCH COMMISSION'S REVIEW PROCEDURE FOR ADMINISTRATIVE RULES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Legislative Research Commission for the operation of its review procedure for administrative rules sixty thousand dollars ($60,000) in the 1977-78 fiscal year and seventy thousand dollars ($70,000) in the 1978-79 fiscal year.

Sec. 2. There is further appropriated from the General Fund to the Department of Justice two thousand five hundred dollars ($2,500) in the 1977-78 fiscal year to cover the cost incurred in complying with transferring copies of rules to the Legislative Research Commission as provided in G.S. 120-30.20.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 785 **CHAPTER 1034**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE CONTINUANCE OF THE STAGVILLE PRESERVATION CENTER.

Whereas, the cultural heritage of North Carolina has made an immeasurable contribution to all the citizens of the State; and

Whereas, the preservation of North Carolina's architectural heritage enjoys a prominent place in historic preservation in the nation; and

Whereas, in excess of ten million dollars ($10,000,000) is spent annually in North Carolina on preservation projects by the citizens of the State; and

Whereas, professional help for these citizens is limited due to accessible training facilities; and

Whereas, the Liggett Group, Inc., of Durham has deeded land and historic structures to the State, valued at more than a quarter of a million dollars ($250,000), for the establishment of the Stagville Preservation Center; and

Whereas, this center is the first statewide preservation center in the nation, and is during its first year of operation enjoying a substantial professional reputation throughout the State; and

Whereas, this center has the cooperation of the various universities, colleges, and technical schools, their staffs, faculties, and facilities, in the Triangle area; and

Whereas, the Stagville Center receives support and encouragement from the many preservation organizations in both the State and the Triangle area; and

Whereas, an appropriation is needed to continue the work being done at the Stagville Center during the next fiscal year; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-1978 fiscal year the sum of eighty-four thousand nine hundred fifty-seven

dollars ($84,957), and for the 1978-1979 fiscal year the sum of eighty-nine thousand nine hundred fifty-seven dollars ($89,957) for the use of the Stagville Preservation Center. Funds appropriated by this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 810 CHAPTER 1035

AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF PRISONS, DEPARTMENT OF CORRECTION, FOR THE PURPOSE OF CONTINUING A PROGRAM OF EDUCATION FOR PRISONERS AND FOR THEIR REHABILITATION.

Whereas, with the use of federal funds and private funds which are no longer available, there has been established and administered by The University of North Carolina-Chapel Hill, Extension Division, under the title "Econo-College for Inmates" at the Orange County Correctional Center, Hillsborough, North Carolina; and

Whereas, the program which has been carried on as aforesaid has proven to be beneficial and of significant rehabilitative value for qualified persons in prison; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund or from any other unencumbered funds or balances the sum of twenty-nine thousand dollars ($29,000) in fiscal year 1977-1978 and the sum of thirty-two thousand dollars ($32,000) in fiscal year 1978-1979 to the Division of Prisons of the Department of Correction to maintain during the biennium the educational program and service heretofore and currently being administered by The University of North Carolina-Chapel Hill, Extension Division, at the Orange County Correctional Center, Hillsborough, North Carolina.

Sec. 2. The funds hereby appropriated shall be used and expended by the Division of Prisons, Department of Correction, for the purpose of paying the costs of maintaining and administering said program, including such tuition or other costs as may be necessary to be paid to The University of North Carolina-Chapel Hill, Extension Division.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 833 **CHAPTER 1036**

AN ACT DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CONSUMER PRODUCTS SAFETY.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission shall study the hazardous conditions that exist in North Carolina as a result of consumer products that are not presently regulated within the State. The commission shall consider the dangers that exist to the people of this State as a result of those products being in commerce. The commission shall report to the 1979 General Assembly.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 845 **CHAPTER 1037**

AN ACT TO AMEND G.S. 115-205.11 TO PROVIDE FOR THE ALLOCATION OF KINDERGARTEN PROGRAM FUNDS TO COUNTY AND CITY BOARDS OF EDUCATION BASED UPON THE AVERAGE DAILY MEMBERSHIP FOR THE BEST CONTINUOUS THREE OUT OF THE FIRST FOUR SCHOOL MONTHS OF PUPILS IN THE KINDERGARTEN PROGRAM DURING THE LAST SCHOOL YEAR IN THAT RESPECTIVE SCHOOL ADMINISTRATIVE UNIT.

Whereas, the 1975 General Assembly in Chapter 983 of the 1975 Session Laws provided the necessary funding for full implementation of the State's kindergarten program; and

Whereas, during the 1976-77 school year all school administrative units throughout the State were operating kindergarten programs for all eligible children; and

Whereas, the most equitable method of providing State funds for kindergarten programs is based upon the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-205.11 is amended by rewriting the third paragraph thereof so that the same shall read as follows:

"Among the standards to be adopted by the State Board of Education shall be a provision that the board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 862 **CHAPTER 1038**

AN ACT TO AMEND ARTICLE 17 OF CHAPTER 106 OF THE GENERAL STATUTES TO PROVIDE AGGREGATE STATE SERVICE CREDIT FOR AGRICULTURE, POULTRY, FRUIT, VEGETABLE, AND GRAIN GRADERS.

The General Assembly of North Carolina enacts:

Section 1. Article 17 of Chapter 106 of the General Statutes is hereby amended by adding thereto a new section, to be numbered G.S. 106-190.1, and to read as follows:

"§ 106-190.1. *Aggregate State service credit for graders.*—All fruit, vegetable, grain, poultry, egg and egg products graders employed by the board in positions in fact permanent and full time, but who were inadvertently or incorrectly classified as temporary until January 1, 1974, shall be given aggregate State service credit for the period of employment before January 1, 1974. This credit shall be given only to persons employed on a full-time, year-round basis during which time they were classified as temporary. Credit shall be given for purposes of determining the amount of leave earned by the employee, eligibility for and amount of longevity pay, and any other determinations for which the length of State service is relevant. Employees given retroactive aggregate State service credit under this section shall receive retroactive longevity pay, to the extent for which they would have been eligible for longevity pay if they had been correctly classified from the date of their initial employment, for all service beginning January 1, 1974, until the effective date of this section, with any longevity pay actually paid to be subtracted therefrom."

Sec. 2. This act shall become effective August 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 865 **CHAPTER 1039**

AN ACT TO AUTHORIZE A LOAN TO THE BATTLESHIP COMMISSION IN ORDER TO ACQUIRE THE BLOCKADE RUNNER MUSEUM.

The General Assembly of North Carolina enacts:

Section 1. During the biennium of 1977-1979, a sum, not to exceed two hundred thousand dollars ($200,000) may be made available by the Council of State from the Contingency and Emergency Fund for loan to the U.S.S. North Carolina Battleship Commission, subject to the approval of the Governor and the Council of State, to purchase the Blockade Runner Museum, Inc., at Carolina Beach, its land, buildings and contents. Such sum, as is made available for such use by the commission prior to June 30, 1979, shall be loaned upon such terms of repayment, not to exceed 20 years, as may be agreed upon by the Governor and the Council of State.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 886 **CHAPTER 1040**

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA DEPARTMENT OF LABOR TO CONTINUE FUNDING FOR OSHA CONSULTANT POSITIONS EXPIRING ON JUNE 30, 1977.

Whereas, the North Carolina Department of Labor is responsible for the State administration of OSHA; and

Whereas, the North Carolina Department of Labor favors and has stressed voluntary compliance with OSHA standards; and

Whereas, consultants are essential to continued emphasis on voluntary compliance; and

Whereas, five OSHA consultants are currently being paid with highway funds which expire on June 30, 1977; and

Whereas, these five consultants are senior career employees who have been trained at State expense and possess invaluable experience; and

Whereas, one statistician position in the OSHA Division was set up on an emergency basis and the position expires on June 30, 1977, and this position is essential for providing necessary backup for the total operations of the OSHA Division; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the North Carolina Department of Labor the sum of sixty-eight thousand six hundred fifty three dollars ($68,653) for the 1977-78 fiscal year and seventy-one thousand sixty-seven dollars ($71,067) for the 1978-79 fiscal year for the continuation of five OSHA consultant positions and four thousand five hundred seventy-six dollars ($4,576) for the 1977-78 fiscal year and four thousand seven hundred eighty-two ($4,782) for the 1978-79 fiscal year for the continuation of one statistician assistant III position.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 887 **CHAPTER 1041**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF LABOR FOR THE PURCHASE OF SPECIAL TECHNICAL EQUIPMENT MANDATED TO CONTINUE STATE ADMINISTRATION OF THE OCCUPATIONAL SAFETY AND HEALTH ACT.

Whereas, the North Carolina Department of Labor administers the United States Occupational Safety and Health Act under constant monitoring by the federal government; and

Whereas, the United States Department of Labor conducts quarterly audits to determine if the North Carolina Department of Labor is in compliance with federal requirements; and

Whereas, the North Carolina Department of Labor's OSHA program is in its final certification year; and

Whereas, in order for safety officers to enforce OSHA standards, certain technical testing, sampling and protective equipment is necessary but is not currently available; and

Whereas, the March, 1977, audit by the United States Department of Labor stated, "The State shall provide the required field equipment for the effective performance of inspections"; and

Whereas, if this equipment is not provided, North Carolina's continued administration of OSHA will be jeopardized; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Labor the amount of thirty-five thousand two hundred twenty-one dollars ($35,221) for the 1977-78 fiscal year and the amount of twenty-five thousand eight hundred fifty-nine ($25,859) for the 1978-79 fiscal year for the purchase of the needed safety and health equipment.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 898 CHAPTER 1042

AN ACT TO TRANSFER FUNDS FROM THE HIGHWAY FUND TO THE GENERAL FUND FOR THE GASOLINE AND OIL INSPECTION SUBPROGRAM OF THE DEPARTMENT OF AGRICULTURE.

The General Assembly of North Carolina enacts:

Section 1. The sum of fifty-two thousand four hundred seventy-eight dollars ($52,478) for fiscal year 1977-1978, and the sum of fifteen thousand seventy-four dollars ($15,074) for fiscal year 1978-1979, are hereby transferred from the Highway Fund and appropriated to the Department of Agriculture, in addition to all other funds appropriated, for the purpose of funding the Gasoline and Oil Inspection Subprogram of the Department of Agriculture, as the same is described on page F-31 of the Budget.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 902 CHAPTER 1043

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES TO IMPROVE AND OPERATE THE STATE CAPITOL.

Whereas, the State Capitol was constructed during the period 1833 to 1840 at a cost equal to three and one half-years' general tax revenue of the State at that time; and

Whereas, the State Capitol is one of the finest surviving examples of a major civic building in the Greek Revival Style of architecture and has been declared a National Historic Landmark by the U.S. Department of the Interior; and

Whereas, the State Capitol housed all of State government from 1840 until the 1880's and the General Assembly through 1961; and

Whereas, the 1971 General Assembly has placed the first floor corridors and stairways, and all of the second, third, and attic levels of the State Capitol in the custody of the Division of Archives and History, Department of Cultural

Resources, to be administered and interpreted to the public as an historic shrine; and

Whereas, the 1971 and 1973 Sessions of the General Assembly appropriated nine hundred twenty-five thousand dollars ($925,000) for replacing the copper roof and restoring the interior of the State Capitol, such work now nearing completion; and

Whereas, the State Capitol Foundation, Inc., a nonprofit group, is assisting the State by repairing existing antiques and procuring others necessary to furnish the Capitol to its 1840-65 period, by means of private donations to the State; and

Whereas, an additional appropriation is needed to set up and continue operating tours, lectures, narrated slide programs, motion picture films, and related educational programs befitting the dignity of the Capitol as the symbol of good State government and to keep the facilities open for weekend visitation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of fifty thousand dollars ($50,000) and for the 1978-79 fiscal year the sum of fifty thousand dollars ($50,000) for researching, developing, and continuously operating educational tours, orientation programs, exhibits, and other visitor services programs at the State Capitol and for the continuing operation of the facilities.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 904 CHAPTER 1044

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE FOR THE SURVEILLANCE OF THE SWINE DISEASE KNOWN AS PSEUDORABIES.

The General Assembly of North Carolina enacts:

Section 1. The sum of twenty-seven thousand nine hundred eighty-two dollars ($27,982) for fiscal year 1977-78 and the sum of twenty-seven thousand nine hundred ninety-eight dollars ($27,998) for fiscal year 1978-79 is hereby appropriated from the General Fund to the Department of Agriculture in addition to all other funds for the purpose of surveillance and prevention of the introduction and spread of pseudorabies in the swine herds of North Carolina.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 182 **CHAPTER 1045**

AN ACT TO APPROPRIATE STATE FUNDS FOR THE RESTORATION OF THE MARKS HOUSE AND ITS DEPENDENCIES IN STANLY COUNTY.

Whereas, in June of 1975, the Stanly County Albemarle Historic Properties Commission, organized pursuant to the provisions of Chapter 160A - 399.1 et seq. of the North Carolina General Statutes, acquired by gift The Marks House; and

Whereas, The Marks House is considered to be the oldest dwelling still standing in the City of Albemarle and one of the most important pre-Civil War dwellings still standing in Stanly County; and

Whereas, the North Carolina Department of Archives and History recognizes The Marks House as one of the best examples of the Piedmont Federal Style of architecture still in existence; and

Whereas, the Stanly County Albemarle Historic Properties Commission wishes to expand its preservation efforts by restoring and opening to the people of North Carolina this important structure; and

Whereas, with funds raised from private sources, supplemented and matched by funds from the State, federal, county and city governments, it will be possible to proceed with and complete the restoration work for The Marks House; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance in completing the restoration of The Marks House and its dependencies in Stanly County for the fiscal year 1977-78, the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Stanly County Albemarle Historic Properties Commission; and for the fiscal year 1978-79 for assistance in completing the restoration of The Marks House and its dependencies in Stanly County the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Stanly County Albemarle Historic Properties Commission.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 184

CHAPTER 1046

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR FISCAL YEARS 1977-79, TO BE USED FOR A COMMUNICATIONS SYSTEM FOR THE BLIND.

The General Assembly of North Carolina enacts:

Section 1. In addition to any and all other appropriations to the North Carolina Department of Human Resources, there is hereby appropriated from the General Fund the sum of fourteen thousand five hundred thirty-six dollars ($14,536) for fiscal year 1977-78 and thirteen thousand nine hundred seventy-eight dollars ($13,978) for fiscal year 1978-79 to be used for a braille and tape communications system for the blind.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 240

CHAPTER 1047

AN ACT TO AMEND G.S. 7A-16 TO INCREASE THE NUMBER OF JUDGES OF THE COURT OF APPEALS FROM NINE JUDGES TO TWELVE JUDGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-16 is hereby amended by inserting after the fourth paragraph thereof as it now appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes the following:

"Effective January 1, 1977, the number of judges is increased to 12; and the Governor, on or after July 1, 1977, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1979. Their successors shall be elected at the general election for members of the General Assembly in November, 1978, and shall take office on January 1, 1979, to serve the remainder of the unexpired term which began on January 1, 1977."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 330

CHAPTER 1048

AN ACT TO INCLUDE VOLUNTARY AMBULANCE PERSONNEL WITHIN THE LAW ENFORCEMENT OFFICERS', FIREMEN'S RESCUE SQUAD WORKERS', AND CIVIL AIR PATROL MEMBERS' DEATH BENEFITS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166.2(d) as the same appears in the 1975 Cumulative Supplement to the General Statutes is hereby amended to read as follows:

"(d) The term 'law enforcement officer', 'officer', or 'fireman' shall mean all law enforcement officers employed full time by the State of North Carolina or any county or municipality thereof and all full-time custodial employees of the North Carolina Department of Correction. The term 'fireman' shall mean 'eligible fireman' or 'fireman' as defined in G.S. 118-23. The term 'rescue squad

worker' shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue Squads, Inc. must file a roster of those members meeting the above requirements with the State Auditor on or about January 1 of each year, and this roster must be certified to by the secretary of said association. In addition, the term 'rescue squad worker' shall mean a member of an ambulance service certified by the Department of Human Resources pursuant to Article 26 of Chapter 130 of the General Statutes. The Department of Human Resources shall furnish a list of ambulance service members to the State Auditor on or about January 1 of each year. The term 'Civil Air Patrol members' shall mean those senior members, 18 years of age and older, who are in good standing, currently trained and so certified by the Secretary of Crime Control and Public Safety or his delegate."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 336 CHAPTER 1049

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES TO HELP ESTABLISH A STATEWIDE REVOLVING FUND FOR HISTORIC PRESERVATION.

Whereas, revolving funds for historic preservation have proven their worth in a number of cities and are now being encouraged by federal officials to be established on a statewide basis; and

Whereas, North Carolina took the lead in this effort with the creation of The Historic Preservation Fund of North Carolina, Inc., on November 18, 1975, under the sponsorship of The Historic Preservation Society of North Carolina, Inc.; and

Whereas, the creation of the fund was urged by the Department of Cultural Resources, with the Director of its Division of Archives and History and the Chairman of the North Carolina Historical Commission serving as ex officio members of the fund's board of directors; and

Whereas, the Mary Reynolds Babcock Foundation granted thirty-five thousand dollars ($35,000) for the first year's operating expenses of the fund and the Z. Smith Reynolds Foundation has granted fifty thousand dollars ($50,000) to the fund provided it raises at least two hundred thousand dollars ($200,000) from other sources; and

Whereas, some 100 of those properties in North Carolina listed on the National Register of Historic Places, many of which are in underdeveloped areas, are in imminent jeopardy of being lost by demolition or neglect; and

Whereas, the fund's main thrust in fund raising will be in the private sector, involving a maximum amount of citizen participation, thus lifting one of the burdens of State government; and

Whereas, the State should help financially in the establishment of a revolving fund for North Carolina as today's businesslike approach to historic preservation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of fifty thousand dollars ($50,000) and for the 1978-79 fiscal year the sum of fifty thousand dollars ($50,000) for the use of The Historic Preservation Fund of North Carolina, Inc., provided a like amount of money is raised from private sources by The Historic Preservation Fund of North Carolina, Inc., after July 1 in each of the respective fiscal years, for the purpose of helping to establish a revolving fund for historic preservation within the State of North Carolina. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 439 CHAPTER 1050

AN ACT TO ESTABLISH A CONSUMER AND ADVOCACY ADVISORY COMMITTEE FOR THE BLIND.

The General Assembly of North Carolina enacts:

Section 1. Part 9 of Article 3 of Chapter 143B of the General Statutes is hereby repealed and in its place is substituted the following:

"PART 9.

"Consumer and Advocacy Advisory Committee for the Blind.

"§ 143B-163. *Consumer and Advocacy Advisory Committee for the Blind—creation, powers and duties.*—(a) There is hereby created the Consumer and Advocacy Advisory Committee for the Blind of the Department of Human Resources.

(b) The Consumer and Advocacy Advisory Committee for the Blind shall advise all State boards, commissions, agencies, divisions, departments, schools, corporations, or other state-administered associations or entities, including the secretary, director and members of said boards, commissions, agencies, divisions, departments, schools, et cetera, on the needs of the citizens of the State of North Carolina who are now or will become visually handicapped or impaired.

(c) The Consumer and Advocacy Advisory Committee for the Blind shall also advise every State board, commission, agency, division, department, school, corporation, or other state-administered associations or entity concerning sight conservation programs that it supervises, administers or controls.

(d) All State boards, commissions, agencies, divisions, departments, schools, corporations, or other state-administered associations or entities including the secretary, director and members of said State boards, agencies, departments, et cetera, which supervise, administer or control any program for or affecting the citizens of the State of North Carolina who are now or will become visually handicapped or impaired shall inform the Consumer and Advocacy Advisory Committee for the Blind of any proposed change in policy, program, budget,

rule, or regulation which will affect the citizens of North Carolina who are now or will become visually handicapped or impaired. Said board, commission, et cetera, shall allow the Consumer and Advocacy Advisory Committee for the Blind, prior to passage, unless such change is made pursuant to G.S. 150A-13, an opportunity to object to the change and present information and proposals on behalf of the citizens of North Carolina who are now or will become visually handicapped or impaired. This subsection shall also apply to all sight conservation programs of the State of North Carolina.

(e) Nothing in this statute shall prohibit a board, commission, agency, division, department, et cetera, from implementing any change after allowing the Consumer and Advocacy Advisory Committee for the Blind an opportunity to object and propose alternatives.

"§ 143B-164. *Consumer and Advocacy Advisory Committee for the Blind—members; selection; quorum; compensation.*—(a) The Consumer and Advocacy Advisory Committee for the Blind of the Department of Human Resources shall consist of the following members:

(1) President and Vice-President of the National Federation of the Blind of North Carolina;

(2) President and Vice-President of the North Carolina Council of the Blind;

(3) President and Vice-President of the North Carolina Association of Workers for the Blind;

(4) President and Vice-President of the North Carolina Chapter of the American Association of Workers for the Blind;

(5) Chairman of the State Council of the North Carolina Lions and Executive Director of the North Carolina Lions Association for the Blind, Inc.;

(6) Chairman of the Concession Stand Committee of the Division of Services for the Blind of the Department of Human Resources;

(7) Executive Director of the North Carolina Society for the Prevention of Blindness, Inc.

Provided, each officeholder shall serve on the committee only so long as he holds the named position in the specified organization. Upon completion of his term, failure to secure reelection or appointment, or resignation, the individual shall be deemed to have resigned from the committee and his successor in office shall immediately become a member of the committee.

Provided, further, if any of the above organizations dissolve or if any of the above-stated positions no longer exist, then the successor organization or position shall be deemed to be substituted in the place of the former one and the officeholder in the new organization or of the new position shall become a member of the committee.

(b) A chairman shall be elected by a majority vote of the committee members for a one-year term to coincide with the fiscal year of the State. Provided, the first chairman shall be elected for a term to end June 30, 1978.

Provided, further, if any chairman does not desire or is unable to continue to perform as chairman for any reason, including his becoming ineligible to be a member of the committee as specified in subsection (a), the remaining members shall elect a chairman to fulfill the remainder of his term.

(c) A majority of the members shall constitute a quorum for the transaction of business.

(d) The committee shall meet once a quarter to act upon any information provided them by any board, commission, agency, division, department, school, et cetera. Special meetings may be held at any time and place within the State at the call of the chairman or upon written request of at least a majority of the members. Provided, a majority of the members shall be allowed to waive any meeting.

(e) All clerical and other services required by the committee shall be supplied by the Secretary of Human Resources.

(f) Members of the committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 503 **CHAPTER 1051**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE NEW BERN ACADEMY HISTORICAL COMMISSION TO PLAN AND RESTORE THE NEW BERN ACADEMY, NEW BERN.

Whereas, the cultural heritage of the New Bern area of North Carolina has made an immeasurable contribution to all the citizens of the State; and

Whereas, New Bern has played an important role in the history of North Carolina from the earliest days of settlement; and

Whereas, there is a need to give special public recognition to the city's early inhabitants; and

Whereas, it is desirable to preserve and perpetuate the history and cultural heritage of New Bern; and

Whereas, New Bern Academy was authorized by the Assembly of 1764 and construction completed by 1766; the original structure burned in 1795, and the present building was constructed ca 1806; and

Whereas, the New Bern Academy Historical Commission has obtained a lease from the Board of Education of the New Bern City Schools for the premises known as the New Bern Academy and such other surrounding property as deemed appropriate at 311-313 New Street, New Bern, Craven County, North Carolina; and

Whereas, the 1975 General Assembly passed a bill creating the New Bern Academy Historical Commission to acquire and dispose of title to and interests in the historic property and to repair, restore, and otherwise improve and maintain such property; and

Whereas, an appropriation is needed to carry out the work to be done on the New Bern Academy during the next fiscal year; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of eighteen thousand nine hundred dollars

($18,900), seventeen thousand five hundred dollars ($17,500) of which will be available to the New Bern Academy Historical Commission for the purpose of restoration, to include a phased program of (1) research, (2) planning, and (3) rehabilitation of the New Bern Academy, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the recipient/for the project, provided an amount of seventeen thousand five hundred dollars ($17,500) is raised by the New Bern Academy Historical Commission; and for 1978-79 fiscal year the sum of eighteen thousand nine hundred dollars ($18,900), seventeen thousand five hundred dollars ($17,500) of which will be available to the New Bern Academy Historical Commission for the purpose of execution of the restoration of the New Bern Academy, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the recipient/for the project, provided an amount of seventeen thousand five hundred dollars ($17,500) is raised by the New Bern Academy Historical Commission. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 545

CHAPTER 1052

AN ACT TO APPROPRIATE FUNDS FOR COMPLETION OF THE RESTORATION OF FORT DEFIANCE AND ITS DEPENDENCIES IN CALDWELL COUNTY.

Whereas, William Lenoir came as a young man to the Yadkin Valley of North Carolina in 1775, became an officer in the American Revolution, served as a leader in State government for many years, and was president of the Board of Trustees of The University of North Carolina; and

Whereas, Fort Defiance, the home of General Lenoir in Caldwell County, has been acquired by Fort Defiance, Incorporated; and

Whereas, this nonprofit corporation, with the assistance of the State, federal, county and municipal governments, private foundations, and citizens of the area, has expended approximately two hundred eighty thousand dollars ($280,000) in the acquisition and restoration of this historic place for the education and enjoyment of our people; and

Whereas, restoration of the smokehouse and dairy adjacent to Fort Defiance are important to the preservation and interpretation of Fort Defiance; and

Whereas, additional funds are required to complete the interior restoration of Fort Defiance; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of sixteen thousand two hundred dollars ($16,200), fifteen thousand dollars ($15,000) of which will be available to Fort Defiance, Inc., for the purpose of completing the restoration of Fort Defiance, and for archaeological research on the smokehouse, dairy, kitchen, and formal garden sites, the remainder of which will be used by the Department of Cultural

Resources, Division of Archives and History, to provide technical services to Fort Defiance, Inc., for the project provided an amount of fifteen thousand dollars ($15,000) is raised by Fort Defiance, Inc.; and for the 1978-79 fiscal year, the sum of sixteen thousand two hundred dollars ($16,200), fifteen thousand dollars ($15,000) of which will be available to Fort Defiance, Inc., for the purpose of restoring the smokehouse and dairy, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to Fort Defiance, Inc., provided an amount of fifteen thousand dollars ($15,000) is raised by Fort Defiance, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 553 CHAPTER 1053

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION OF "RICHMOND HILL LAW SCHOOL" IN YADKIN COUNTY.

Whereas, Richmond Mumford Pearson was one of the great legal minds produced in North Carolina, serving on the bench longer than any other man in history to that time, as superior court judge from 1837 to 1848, Justice of the North Carolina Supreme Court from 1848 to 1858, and Chief Justice of that court from 1858 to 1878; and

Whereas, Judge Pearson established in 1847-48 a law school at his home above the Yadkin River, called "Richmond Hill"; and

Whereas, from 1848 to 1876 Justice Pearson conducted at "Richmond Hill" one of the nation's best known private law schools of the day, educating there three governors, six Supreme Court Justices, more than a dozen superior court judges, three congressmen of the United States, one Confederate congressman, numerous State legislators, and various ambassadors, cabinet officers, and other luminaries; and

Whereas, the building known as "Richmond Hill" has been placed in the charge of the historic Richmond Hill Law School Commission, which with approximately one hundred ten thousand dollars ($110,000) of local, foundation, State, and federal funds has stabilized the structure and is now in the process of restoring and preserving the structure, which has played such an important role in North Carolina's history; and

Whereas, a Bureau of Outdoor Recreation grant of twenty-four thousand dollars ($24,000) has been used to develop the surrounding 24 acres as an historic nature park; and

Whereas, there is a need for funds to complete the restoration of the Richmond Hill Law School; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of sixteen thousand two hundred dollars ($16,200), fifteen thousand dollars ($15,000) of which will be available to the Richmond Hill Law School Commission for the purpose of historical and archaeological research and interior restoration of the Richmond Hill Law School, the

remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Richmond Hill Law School Commission for the project, provided an amount of fifteen thousand dollars ($15,000) is raised by the Richmond Hill Law School Commission; and for the 1978-79 fiscal year the sum of sixteen thousand two hundred dollars ($16,200), fifteen thousand dollars ($15,000) of which will be available to the Richmond Hill Law School Commission for the purpose of completing the restoration of the Richmond Hill Law School, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Richmond Hill Law School Commission, provided an amount of fifteen thousand dollars ($15,000) is raised by the Richmond Hill Law School Commission. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 696 CHAPTER 1054

AN ACT TO APPROPRIATE MATCHING FUNDS TO ASSIST IN THE RESTORATION AND PRESERVATION OF STONEWALL IN NASH COUNTY.

Whereas, Stonewall (also known as the Lewis House) built about 1830 by Bennett Bunn as the mansion house for his Little Falls Plantation, is an exceptional antebellum plantation house; and

Whereas, the interior of Stonewall is indicative of the presence of a master craftsman whose work is among the finest interpretations of the Federal style in the State; and

Whereas, Stonewall is listed in the National Register of Historic Places; and

Whereas, Stonewall is presently leased to the Nash County Historical Association, Inc., by Rocky Mount Mills, which has agreed to convey the property to the association; and

Whereas, the Nash County Historical Association, Inc., has developed plans to preserve Stonewall as one of the chief architectural monuments of North Carolina and to open it to the public for its educational and historical value; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 Fiscal Year the sum of eighteen thousand nine hundred dollars ($18,900), seventeen thousand five hundred dollars ($17,500) of which will be available to the Nash County Historical Association, Inc., for the purpose of beginning the exterior and masonry restoration of Stonewall, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Nash County Historical Association, Inc., for the project provided an amount of seventeen thousand five hundred dollars ($17,500) is raised by the Nash County Historical Association, Inc.; and for the 1978-79 Fiscal Year the sum of eighteen thousand

nine hundred dollars ($18,900), seventeen thousand five hundred dollars ($17,500) of which will be available to the Nash County Historical Association, Inc., for the purpose of completing the exterior and masonry restoration and beginning the interior restoration of Stonewall, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Nash County Historical Association, Inc., for the project provided an amount of seventeen thousand five hundred dollars ($17,500) is raised by the Nash County Historical Association, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 742 CHAPTER 1055

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR HISTORIC WILMINGTON FOUNDATION, INC., TO PLAN FOR AND RESTORE THE DE ROSSET HOUSE, WILMINGTON.

Whereas, the cultural heritage of the port city of Wilmington has made an outstanding and immeasurable contribution to all citizens of the State; and

Whereas, Wilmington has played a vital role in the history and development of North Carolina from the early days of settlement; and

Whereas, it is desirable to preserve and use for the public benefit structures which reflect the history and life of the City of Wilmington; and

Whereas, the Historic Wilmington Foundation, Inc., has participated actively in preservation activities in the city for eleven years; and

Whereas, the Historic Wilmington Foundation, Inc., has acquired for preservation purposes the de Rosset House, the grandest of all Wilmington's antebellum Italianate style dwellings, built for a Dr. Armand John de Rosset III, a physician turned merchant; and

Whereas, the de Rosset House reflects the exuberant lifestyle of mid-nineteenth century Wilmington and is an outstanding example of the city's prevailing architectural style; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of twenty-seven thousand dollars ($27,000), twenty-five thousand dollars ($25,000) of which will be available to the Historic Wilmington Foundation, Inc., for the purpose of restoration, to include a phased program of (1) research, (2) planning, and (3) rehabilitation of the de Rosset House, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the recipient/for the project, provided an amount of twenty-five thousand dollars ($25,000) is raised by the Historic Wilmington Foundation, Inc.; and for 1978-79 fiscal year the sum of twenty-seven thousand dollars ($27,000), twenty-five thousand dollars ($25,000) of which will be available to the Historic Wilmington Foundation, Inc., for the purpose of execution of the restoration of the de Rosset House, the remainder of which will be used by the Department of

Cultural Resources, Division of Archives and History, to provide technical services to the recipient/for the project, provided an amount of twenty-five thousand dollars ($25,000) is raised by the Historic Wilmington Foundation, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 756 CHAPTER 1056

AN ACT TO APPROPRIATE FUNDS FOR THE RESTORATION OF THE WILLIAM KING HOUSE IN BERTIE COUNTY.

Whereas, the William King House is among the very few pre-Revolutionary dwellings in the State that has survived essentially unchanged since construction to provide present-day citizens with knowledge of the craftsmanship, conditions of life, and living habits in North Carolina before the Revolution; and

Whereas, the date of construction (1763) and first owners (William and Elizabeth King) of the house are definitely known, making the house uniquely valuable in dating and interpreting other eighteenth century buildings in the State; and

Whereas, the house is of great architectural significance because of the exceptionally complete survival of rare and early features such as its gambrel roof, brick ends, T-stack chimneys, and fine Georgian woodwork including mantels, wainscoting, cupboards, and stairs; and

Whereas, the Historic Hope Foundation, Inc., wishes to restore this important structure and open it to the citizens of North Carolina for their enlightenment and enjoyment; and

Whereas, the Historic Hope Foundation, Inc., has already raised approximately fifty thousand dollars ($50,000) of private, local, and State funds for historical and archaeological research, architectural planning, and moving the King House to land contiguous to Hope Plantation; and

Whereas, the Historic Hope Foundation, Inc., seeks a State appropriation to assist with the exterior restoration of the King House; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of sixteen thousand two hundred dollars ($16,200), fifteen thousand dollars ($15,000) of which will be available to the Historic Hope Foundation, Inc., for the purpose of exterior restoration of the William King House, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Historic Hope Foundation, Inc., for the project provided an amount of fifteen thousand dollars ($15,000) is raised by the Historic Hope Foundation, Inc.; and for the 1978-79 fiscal year the sum of sixteen thousand two hundred dollars ($16,200), fifteen thousand dollars ($15,000) of which will be available to the Historic Hope Foundation, Inc., for continuing the restoration of the William King House, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical

services to the Historic Hope Foundation, Inc., for the project provided an amount of fifteen thousand dollars ($15,000) is raised by the Historic Hope Foundation, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 764 CHAPTER 1057

AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR THE PURCHASE AND OPERATION OF A FOREST FIRE CONTROL PLOWING UNIT FOR VANCE, GRANVILLE, AND PERSON COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, in addition to all other appropriations, the sum of ninety thousand five hundred sixty-nine dollars ($90,569) for the fiscal year beginning on July 1, 1977, and the sum of eleven thousand three hundred twenty-nine dollars ($11,329) for the fiscal year beginning on July 1, 1978. Said sums are to be expended for the purchase, maintenance, operation and expenses incident thereto, of a forest fire control plowing unit, as herein enumerated in Section 3.

Sec. 2. The forest fire control unit herein authorized is to be stationed in Granville County, for use in Vance, Granville and Person Counties; provided, however, that said unit may be used in other counties of the State in the discretion of the State forester.

Sec. 3. The sums herein appropriated are to be expended according to the following schedule:

		1977-78	1978-79
1211	Salaries		
	Forest Fire Equipment Operator	$ 8,016	$ 8,016
1811	Social Security Contributions	469	469
1821	Retirement Contributions	732	732
1830	Hospital Insurance Contributions	267	267
2100	Household & Clothing Supplies	200	200
2400	Construction & Repair Supplies	20	20
2500	Motor Vehicle Operation	1,000	1,000
2600	Office Materials and Supplies	100	100
3110	Travel	200	200
3210	Telephone	100	100
3250	Postage	50	50
4760	Workmen's Compensation	150	150
5300	Educational, Medical & Agricultural Equipment	25	25
5400	Motor Vehicles		
	(1) Single-Axle Truck Tractor	25,000	
	(1) Low-Boy Trailer	9,500	
5500	Equipment		

(1) Med. Tractor (TD-9 Class)	40,000	
(1) Fire Plow	2,500	
(1) Mobile Radio	950	
(1) Portable Radio	1,000	
Safety Equipment	40	
Tools	250	
TOTAL	$90,569	$11,329
STATE APPROPRIATION	$90,569	$11,329

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 793 CHAPTER 1058

AN ACT TO APPROPRIATE FUNDS TO ASSIST THE RESTORATION OF HARMONY HALL IN THE CITY OF KINSTON.

Whereas, Harmony Hall in the City of Kinston in Lenoir County is the only surviving eighteenth century building in the City of Kinston, the original portion thereof having been constructed in the last quarter of the eighteenth century; and

Whereas, the house served as the residence of James Glasgow, Secretary of State during the Richard Caswell administration, and was owned by Governor Caswell; and

Whereas, the Kinston Woman's Club has donated Harmony Hall, its furnishings, the lot that it occupies, and one thousand dollars ($1,000) in the memory of Ann Hood Capps to the Lenoir County Historical Association, Inc.; and

Whereas, the City of Kinston and Lenoir County can greatly benefit from the restoration of the house as a museum and community and visitor's center; and

Whereas, the Lenoir County Historical Association, Inc., has raised fifty thousand dollars ($50,000) in State, county, city, and local funds for the purpose of restoring and preserving Harmony Hall; and

Whereas, the Lenoir County Historical Association has reroofed the main section of the house, conducted historical and archaeological research, prepared measured drawings of the structure, and is now preparing working drawings for the restoration of Harmony Hall; and

Whereas, there is a need for additional State funding to carry out the preservation and restoration of Harmony Hall; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of twenty-seven thousand dollars ($27,000), twenty-five thousand dollars ($25,000) of which will be available to the Lenoir County Historical Association, Inc., for the purpose of continuing the exterior restoration of Harmony Hall, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Lenoir County Historical Association, Inc., for the project provided an amount of twenty-five thousand dollars ($25,000) is

raised by the Lenoir County Historical Association, Inc.; and for the 1978-79 fiscal year the sum of twenty-seven thousand dollars ($27,000), twenty-five thousand dollars ($25,000) of which will be available to the Lenoir County Historical Association, Inc., for the purpose of completing the exterior restoration and beginning the interior restoration of Harmony Hall, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Lenoir County Historical Association, Inc., for the project provided an amount of twenty-five thousand dollars ($25,000) is raised by the Lenoir County Historical Association, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 854 CHAPTER 1059

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR SPECIAL OLYMPICS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated out of the General Fund and in addition to all other appropriations the amount of sixty thousand dollars ($60,000) to the Department of Human Resources for the biennium 1977-79 for use in sponsoring statewide programs of special olympics, the appropriation to be allocated as follows: thirty thousand dollars ($30,000) for fiscal year 1977-78 and thirty thousand dollars ($30,000) for fiscal year 1978-79.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 861 CHAPTER 1060

AN ACT TO APPROPRIATE FUNDS TO ASSIST THE MARTIN COUNTY HISTORICAL SOCIETY, INC., IN THE PURCHASE OF THE ASA BIGGS BIRTHPLACE.

Whereas, Asa Biggs was born February 4, 1811, in Williamston, Martin County, North Carolina; and

Whereas, Asa Biggs was an outstanding citizen of this State and nation serving as a member of the North Carolina Constitutional Convention of 1835, a member of the House of Commons in 1840 and 1842, a member of the United States House of Representatives in 1845, a member of the United States Senate in 1854, and as a United States District Judge for North Carolina in 1858; and

Whereas, Asa Biggs was an advocate of "States' Rights", resigned his office of United States District Judge for North Carolina in April of 1861 and accepted the office of District Judge in the provisional government of the Confederacy in June of 1861, where he served with distinguished ability until the fall of the Confederacy; and

Whereas, both of Asa Biggs' sons, who were born in the Asa Biggs' birthplace, fought for the Confederacy, his older son, William Biggs, was a Captain in Company A of the 17th Regiment; his younger son, Henry Andrew

Biggs, was killed the day General Robert E. Lee surrendered at Appomattox; and

Whereas, the Asa Biggs' birthplace will be sold in the near future and the Martin County Historical Society, Inc., has been granted first opportunity to purchase; and

Whereas, the Martin County Historical Society is in need of additional funds to purchase the Asa Biggs' birthplace; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources for assistance in purchasing the Asa Biggs' birthplace for the 1977-78 fiscal year the sum of twenty thousand dollars ($20,000) provided a like amount is raised by the Martin County Historical Society after July 1, 1977.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 939 CHAPTER 1061

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO BE USED TO INCREASE THE RATE OF INCENTIVE PAY FOR DELINQUENT JUVENILES COMMITTED TO THE CUSTODY OF THE DIVISION OF YOUTH SERVICES WHO PARTICIPATE IN THE INCENTIVE WORK PROGRAM OF THE DIVISION OF YOUTH SERVICES.

Whereas, the General Assembly recognizes the rehabilitative value of work for delinquent juveniles who are in the State's system of training schools; and

Whereas, the Division of Youth Services currently has funds available in sufficient quantity to pay incarcerated juveniles at the rate of ten cents (10¢) per hour when such juveniles participate in the Division of Youth Services' incentive work program; and

Whereas, the General Assembly believes that the sum of ten cents (10¢) per hour is inadequate to provide sufficient incentive to encourage incarcerated delinquent juveniles to participate in the incentive work program of the Division of Youth Services to a degree sufficient to instill in such juveniles an appreciation for the value of good work habits; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources, Division of Youth Services, for the purpose of increasing the rate of incentive pay for Division of Youth Services students from ten cents (10¢) per hour to twenty-five cents (25¢) per hour, the sum of fifteen thousand dollars ($15,000) in fiscal year 1977-1978 and the sum of fifteen thousand dollars ($15,000) in fiscal year 1978-1979.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 967 **CHAPTER 1062**

AN ACT TO REIMBURSE VANCE COUNTY AND THE CITY OF HENDERSON FOR EXTRAORDINARY EXPENSES ARISING OUT OF THE SANDRA DUPREE MURDER TRIAL.

Whereas, Vance County and the City of Henderson incurred extraordinary expenses in connection with the Sandra Dupree murder trial; and

Whereas, the said trial imposed an unforeseeable burden on the financial resources of Vance County and the City of Henderson; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the State Contingency and Emergency Fund to Vance County the sum of three thousand forty-seven dollars and thirty-one cents ($3,047.31) as reimbursement for extraordinary expenses arising out of the Sandra Dupree murder trial.

Sec. 2. There is hereby appropriated from the State Contingency and Emergency Fund to the City of Henderson the sum of twenty-four thousand seven hundred fourteen dollars and ninety cents ($24,714.90) for expenses incurred in connection with the Sandra Dupree murder trial and damages to city property resulting from acts of vandalism perpetrated in connection with the Dupree trial.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 978 **CHAPTER 1063**

AN ACT TO APPROPRIATE FUNDS TO PROVIDE FOR PUBLICATION OF THE CATHERINE ANN DEVEREUX EDMONDSTON DIARY.

Whereas, throughout the period of the War between the States a detailed diary was kept by Catherine Ann Devereux Edmondston of Halifax County in which she detailed events on the home front, commented on progress of the war, and revealed the thinking of plantation owners and other citizens of eastern North Carolina; and

Whereas, this diary is a unique manuscript containing information of value to researchers and to all citizens interested in the War between the States era; and

Whereas, on May 1, 1921, the diary was placed on loan with the North Carolina Historical Commission; and

Whereas, the State Department of Archives and History, successor agency to the North Carolina Historical Commission, subsequently obtained all rights, including rights of publication, to the diary by virtue of a bill of sale from Margaret McKay Jones of Alamance County to the said department, dated July 1, 1959; and

Whereas, the diary remains the property of the Division of Archives and History, Department of Cultural Resources; and

Whereas, the diary has been edited for publication but has not yet been published because of the limited budget available for historical publications; and

Whereas, publication of the Catherine Ann Devereux Edmondston Diary would be a significant contribution to scholarship in North Carolina and elsewhere in the nation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, Historical Publications Section, the sum of five thousand dollars ($5,000) for the year 1977-1978, over and above all other appropriations for the said section, to aid in typesetting of the Catherine Ann Devereux Edmondston Diary.

Sec. 2. The published diary shall be sold and distributed as any other publication issued through the Historical Publications Section of the Department of Cultural Resources as provided in G.S. 121-6.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 992 CHAPTER 1064

AN ACT TO ESTABLISH A STATE FIRE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 5A of Chapter 143B of the General Statutes of North Carolina is hereby amended by adding thereto Part 9 which shall read as follows:

"PART 9.

"State Fire Commission.

"§ 143B-257.35. *State Fire Commission created; membership.*—There is hereby created the State Fire Commission of the Department of Crime Control and Public Safety which shall be composed of nine voting members consisting of the following: the Executive Secretary of the North Carolina State Firemen's Association, the Legislative Chairman of the North Carolina State Firemen's Association, the Executive Secretary of the North Carolina Association of Fire Chiefs, the Director of Fire and Rescue Services Training of the Department of Insurance, the Director of Fire Services Training of the Department of Community Colleges, the Director of the North Carolina Fire College and Pump School, one mayor or other elected official of a municipality to be appointed by the Governor after consultation with the President of the North Carolina League of Municipalities, one county commissioner to be appointed by the Governor after consultation with the President of the North Carolina Association of County Commissioners, and one member to be appointed by the Governor from the public at large, not employed by government and not directly involved in fire fighting.

The following State officials shall serve by virtue of their office as nonvoting members of the State Fire Commission: the Commissioner of Insurance, the Commissioner of Labor, the State Auditor, the Attorney General and the Secretary of Crime Control and Public Safety, or their respective designees.

Of the members initially appointed by the Governor, the representative of the public at large shall serve for three years, the representative of the League of Municipalities shall serve for two years and the representative of the Association of County Commissioners shall serve for one year. At the end of

their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The Governor may make appointments to fill the unexpired portions of the appointed members of any term vacated by reason of the death, resignation or removal from office. In making such appointment he shall preserve the composition of the commission required above. Vacancies caused by reason of the death or resignation of ex officio members shall be filled by their respective successors in office.

Members of the State Fire Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as the case may be.

"§ 143B-257.36. *State Fire Commission; powers and duties.*—The State Fire Commission shall have the following powers and duties:

(a) to formally adopt a State Fire Education and Training Plan and a State Master Plan for Fire Prevention and Control;

(b) to assist and participate with State and local fire prevention and control agencies in the improvement of fire prevention and control in North Carolina;

(c) to increase the professional skills of fire protection and fire-fighting personnel;

(d) to encourage public support for fire prevention and control;

(e) to accept gifts, bequests, devises, grants, matching funds, and other considerations from private or governmental sources for use in promoting its work;

(f) to make grants for use in pursuing its objectives, under such conditions as are deemed to be necessary and such other powers as may be necessary to carry out the State's duties with respect to all grants to the State by the National Fire Prevention and Control Administration of the United States Department of Commerce;

(g) to make studies and recommendations for the improvement of fire prevention and control in the State and to make studies and recommendations for the coordination and implementation of effective fire prevention and control and for effective fire prevention and control education;

(h) to set objectives and priorities for the improvement of fire prevention and control throughout the State;

(i) to advise State and local interests of opportunities for securing federal assistance for fire prevention and control and for improving fire prevention and control administration and planning within the State of North Carolina;

(j) to assist State agencies and institutions of local government and combinations thereof in the preparation and processing of applications for financial aid and to support fire prevention and control, planning and administration;

(k) to encourage and assist coordination at the federal, State and local government levels in the preparation and implementation of fire prevention and control administrative improvements and crime reduction plans;

(l) to apply for, receive, disburse and audit the use of funds received for any public and private agencies and instrumentalities for fire prevention and control, its administration and plans therefor;

(m) to enter into monitoring and evaluating the results of contracts and agreements necessary or incidental to the discharge of its assigned responsibilities;

(n) to provide technical assistance to State and local fire prevention and control agencies in developing programs for improvement of the fire prevention and control system; and

(o) to take such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities.

"§ 143B-257.37. *Organization of commission; rules and regulations; meeting.*—(a) First meeting; organization. Within 30 days after its appointment, the State Fire Commission shall meet on call of the Secretary of Crime Control and Public Safety and shall elect from its voting members a chairman and vice-chairman.

(b) Rules and regulations. The State Fire Commission shall adopt such rules and regulations, not inconsistent with the laws of this State as may be required by the federal government for grants-in-aid for fire protection and fire-fighting purposes which may be made available to the State by the federal government. The State Fire Commission shall be the single State agency responsible for establishing policy, planning and carrying out the State's duties with respect to all grants to the State by the National Fire Prevention and Control Administration of the United States Department of Commerce. In respect to such grants, the State Fire Commission shall have authority to review, approve and maintain general oversight to the State plan and its implementation, including subgrants and allocations to local units of government and local fire prevention and control agencies.

All actions taken by the State Fire Commission in the performance of its duties shall be implemented and administered by the Department of Crime Control and Public Safety.

(c) Meetings. The State Fire Commission shall meet quarterly. Five members shall constitute a quorum. All meetings shall be open to the public.

"§ 143B-257.38. *Staff of State Fire Commission.*—There shall be an executive director (State Fire Administrator) selected by the State Fire Commission, who shall be appointed by the Secretary of Crime Control and Public Safety, with direct responsibilities to the commission.

Personnel of the Department of Crime Control and Public Safety shall serve as staff to the State Fire Commission. The Department of Crime Control and Public Safety shall provide the clerical and professional services required by the State Fire Commission and, at the direction of the State Fire Commission, shall develop and administer the State Master Plan for Fire Prevention and Control and the State Fire Education and Training Plan and such additional related programs as may be established by or assigned to the State Fire Commission.

"§ 143B-257.39. *Fiscal affairs of the commission.*—All funds for the operation of the State Fire Commission and its staff shall be appropriated to the Department of Crime Control and Public Safety. All such funds shall be held in a separate or special account on the books of the Department of Crime Control and Public Safety with a separate financial designation or code number to be assigned by the budget bureau or its agent. Expenditures for staff salaries and operating expenses shall be made in the same manner as expenditures of any other Department of Crime Control and Public Safety funds. The Department of Crime Control and Public Safety may hire such additional personnel as may be necessary to handle the work of the State Fire Commission, within the limits of funds appropriated to it by the State and made available to it by the federal government."

Sec. 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 3. There is hereby appropriated from the General Fund, in addition to all other sums appropriated to the Department of Crime Control and Public Safety, the sum of one hundred twenty-three thousand three hundred sixty-four dollars ($123,364) for the 1977-79 biennium to provide for staff, equipment and expenses for the State Fire Commission, sixty-five thousand eighty-two dollars ($65,082) for 1977-78 and fifty-eight thousand two hundred eighty-two dollars ($58,282) for 1978-79.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1012 CHAPTER 1065

AN ACT AMENDING G.S. 115A-5 TO INCLUDE PATIENTS IN STATE ALCOHOLIC REHABILITATION CENTERS WITHIN THE WAIVER PROVISO OF THE SAID STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115A-5 is hereby amended by deleting the word "and" preceding the words "prison inmates" at the end of the second paragraph of the statute and by inserting in lieu of the word "and" the following:

"patients in State alcoholic rehabilitation centers, and".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1029 CHAPTER 1066

AN ACT TO APPROPRIATE FUNDS TO THE GRANVILLE COUNTY HISTORICAL SOCIETY FOR ITS HISTORICAL SITE.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Granville County Historical Society for the fiscal year 1977-78, the sum of fifteen thousand dollars ($15,000) for use in the preservation and maintenance of its historical site.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1041 CHAPTER 1067

AN ACT TO APPROPRIATE FUNDS FOR THE CONSTRUCTION AND OPERATION OF A PINE MOUSE RESEARCH LABORATORY AT MOUNTAIN HORTICULTURAL CROPS RESEARCH STATION, FLETCHER, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund through the North Carolina Agricultural Experiment Station, at North Carolina State University, to the Department of Horticultural Science, Plant Pathology and Zoology, in addition to all other appropriations, a total sum of forty thousand dollars ($40,000) for the fiscal year beginning July 1, 1977, and ending June 30, 1978, and fifteen thousand dollars ($15,000) for the fiscal year beginning July 1, 1978, and ending June 30, 1979, for the purpose of constructing and operating a modular building at Mountain Horticultural Crops Research Station, Fletcher, North Carolina. These monies are to be used for research in developing pine mouse control techniques and procedures for the protection of orchards in North Carolina by the Pine Research Laboratory according to the following schedule:

1.	Construction of 25' by 80' building	$25,000
2.	Operating funds for research laboratory for 1977-78, 1978-79 and ensuing years	3,500
3.	Salary for research technician for 1977-78, 1978-79 and ensuing years	11,500

Sec. 2. Funds appropriated pursuant to this act shall be used as specified in this act. Such funds not assigned as provided herein shall revert to the General Fund.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1100 CHAPTER 1068

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION OF THE JACOB W. HOLT HOUSE IN WARRENTON, WARREN COUNTY.

Whereas, Jacob W. Holt was one of the leading builder-architects in North Carolina in the period from 1844 to the 1860s, when he returned to his native state of Virginia, and in the 1870s, when he again worked in North Carolina; and

Whereas, Jacob Holt was responsible for one of the largest groups of architectural works attributed to a single builder in the State—seven buildings in North Carolina are known to have been built by him and 61 other buildings are attributed to him; and

Whereas, one of the houses in which Jacob Holt lived in Warrenton, Warren County, is a unique towered Italianate-style villa on Bragg Street at Franklin Street and is described as "the residence and workshop of Jacob W. Holt"; and

Whereas, the Town of Warrenton, Warren County, wishes to honor Jacob Holt, who, through his works and the influence of his works, contributed so

greatly to the visual and cultural heritage of North Carolina, by preserving his home and the site of his workshop; and

Whereas, the Jacob W. Holt House has been acquired by the Town of Warrenton which plans to preserve the house for the enlightenment and enjoyment of the citizens of the State of North Carolina; and

Whereas, the Town of Warrenton has already raised twenty-nine thousand dollars ($29,000) of private and federal funds for the preservation of the Jacob Holt House; and

Whereas, the Town of Warrenton seeks a State appropriation to assist with the archaeological, historical, and architectural research on the house and site and the repair and weatherproofing of the house; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-79 biennium the sum of ten thousand eight hundred dollars ($10,800), ten thousand dollars ($10,000) of which will be available to the Town of Warrenton, Warren County, for the purpose of archaeological, historical, and architectural research on the Jacob W. Holt House and site and the repair and weatherproofing of the house, the remainder of which will be used by the Department of Cultural Resources, Division of Archives and History, to provide technical services to the Town of Warrenton for the project provided an amount of ten thousand dollars ($10,000) is raised by the Town of Warrenton. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1209 CHAPTER 1069

AN ACT TO MAKE THE TRI-COUNTY TECHNICAL INSTITUTE A COMPREHENSIVE COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

Section 1. The Tri-County Technical Institute, an institutional member of the North Carolina Community College System, is hereby created a comprehensive community college to be known as Tri-County Community College, which institution shall continue to be subject to the provisions of Chapter 115A of the General Statutes of North Carolina. The State Board of Education and the Board of Trustees of Tri-County Community College shall provide for students enrolling in Tri-County Community College such programs of instruction in occupational and academic education and training as are authorized or required by provisions of Chapter 115A for a community college as therein defined.

Sec. 2. There is hereby appropriated to the State Board of Education, Department of Community Colleges, from the General Fund, in addition to all other appropriations which may be made by the 1977 General Assembly therefrom, the sum of one hundred twenty-one thousand, one hundred and seven dollars ($121,107) for fiscal year 1978-1979, which appropriation shall be placed in the Operations Budget of the Department of Community Colleges for

distribution, together with any other funds which may be made available, to Tri-County Community College in accordance with provisions of the funding formulas designed and maintained by the State Board of Education pursuant to G.S. 115A-5.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1238 CHAPTER 1070

AN ACT TO AMEND THE GENERAL STATUTES OF NORTH CAROLINA TO PROVIDE FOR REPAYMENT OF THE PARTICIPATING INSTITUTIONS' PROPORTIONATE SHARE UPON REPURCHASE OF HIS CONTRACT BY A MEMBER IN THE UNIVERSITIES' OPTIONAL RETIREMENT PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5.1(b)(5), as the same appears in the 1974 Replacement Volume, is hereby amended by inserting in line 5 after the word "the" and before the word "participating" the following: "value of the accumulation attributable to the".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1269 CHAPTER 1071

AN ACT TO APPROPRIATE FUNDS FOR A COMPREHENSIVE HISTORIC SITES SURVEY IN FAYETTEVILLE AND CUMBERLAND COUNTY.

Whereas, the cultural heritage of Fayetteville and Cumberland County has made an immeasurable contribution to all the citizens of the State; and

Whereas, Fayetteville and the surrounding area have played an important role in the agricultural, industrial, social, and commercial history and development of North Carolina since the early eighteenth century; and

Whereas, it is desirable to identify, preserve, and enhance for the public benefit those structures, sites and other properties which reflect the history and life of Fayetteville and Cumberland County; and

Whereas, the Historic and Scenic Sites Commission of the City of Fayetteville has been established to promote the preservation and enjoyment of historic sites; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of ten thousand dollars ($10,000) which will be available to the Historic and Scenic Sites Commission of the City of Fayetteville for the purpose of conducting a survey of historic, architectural, and archaeological resources of Fayetteville and Cumberland County to include a phased program of (a) research, (b) inventory, (c) recording, (d) assessment of

significance and (e) publication of said survey in accordance with the guidelines and procedures of the Division of Archives and History, provided an amount of five thousand dollars ($5,000) is raised by the Historic and Scenic Sites Commission of Fayetteville; and for the 1978-79 fiscal year the sum of ten thousand dollars ($10,000) which will be available to the Historic and Scenic Sites Commission of Fayetteville for the purpose of completion of said survey, provided an amount of five thousand dollars ($5,000) is raised by the Historic and Scenic Sites Commission of Fayetteville. Funds appropriated in this act shall be expended only in accordance with G.S. 121-8 and G.S. 121-11.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1312 CHAPTER 1072

AN ACT TO APPROPRIATE FUNDS TO KEEP NORTH CAROLINA BEAUTIFUL, INC.

Whereas, Keep North Carolina Beautiful, Inc., was formed in 1966, as a nonprofit, nonpartisan, public service organization. The objectives and goals of this organization are to serve as a promotional, educational, advisory and coordinating agency for the improvement of the visual environment of North Carolina; and

Whereas, the programs of Keep North Carolina Beautiful, Inc., include The School Beautification Program, which is implemented through the State Department of Public Instruction, and Operation Beautiful, which includes adult and youth groups, and is promoted through The North Carolina State University Extension Department; and

Whereas, the North Carolina General Assembly enacted a bill during its last session authorizing an Advisory Council on Solid Waste Recycling, Resource Recovery and Litter Control; and

Whereas, Keep North Carolina Beautiful, Inc., continues to endorse legislation involving solid waste management, resource recovery and litter control, and also is developing a project to combat the lack of information and access to experience now present in the field of community appearance; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Administration for Keep North Carolina Beautiful, Inc., the sum of thirty-five thousand six hundred forty nine dollars ($35,649) for fiscal year 1977-78 and thirty-five thousand six hundred forty-nine dollars ($35,649) for fiscal year 1978-79 for the purpose of implementing its various budgetary and public objectives and goals of Keep North Carolina Beautiful, Inc.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1452 CHAPTER 1073

AN ACT TO APPROPRIATE FOUR THOUSAND DOLLARS IN EACH FISCAL YEAR OF THE 1977-1979 BIENNIUM FOR THE TRAVEL, SUBSISTENCE, AND PER DIEM EXPENSES OF THE NORTH CAROLINA CODE OFFICIALS QUALIFICATION BOARD.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Insurance, for the North Carolina Code Officials Qualification Board, four thousand dollars ($4,000) during fiscal year 1977-1978 and four thousand dollars ($4,000) during fiscal year 1978-1979. These funds are to be used to pay the travel, subsistence, and per diem expenses of the board (G.S. 143-151.7).

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1454 CHAPTER 1074

AN ACT TO APPROPRIATE FUNDS TO BEGIN THE PREPARATION OF A BIOGRAPHICAL DIRECTORY OF THE GENERAL ASSEMBLY OF NORTH CAROLINA FROM 1665 TO THE PRESENT, AND TO COLLECT AND MOUNT PICTURES OF OFFICERS OF THE GENERAL ASSEMBLY AND OF RECENT MEMBERS OF THE GENERAL ASSEMBLY IN THE LEGISLATIVE BUILDING.

Whereas, the General Assembly, from its first convening in 1665 to the present day, has constituted a unique assemblage of the social and political leadership of the Colony and State of North Carolina; and

Whereas, the North Carolina General Assembly, more than any other state legislature, has perpetually maintained the colonial and revolutionary traditions of primary governance by the chosen representatives of the people; and

Whereas, from 1665 to the present many of the most distinguished citizens of North Carolina have served in the General Assembly leaving an indelible mark in the history of the Colony and the State; and

Whereas, almost nothing is presently known about nine tenths of those persons who have served in the General Assembly because appropriate records about their lives and careers have not been maintained or collected; and

Whereas, only during the present session have efforts been undertaken to compile for deposit in the State Archives a comprehensive and permanent record of basic data about each member of this General Assembly; and

Whereas, other state legislatures, notably those of Tennessee and South Carolina, have provided for the compilation, writing, and publication of essential biographical data on all persons who have served and are serving in their state assemblies; and

Whereas, it is proper and timely that a program should be established in North Carolina to compile, write, and publish a comprehensive Biographical Directory of the General Assembly of North Carolina from 1665 to the present; and

Whereas, it is also proper that pictures of the officers and members of the General Assembly should be collected and mounted at appropriate places in the Legislative Building; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of twenty-four thousand three hundred seventy-five dollars ($24,375) and for the 1978-79 fiscal year the sum of twenty-three thousand six hundred twenty-five dollars ($23,625) for the purpose of establishing an ongoing program of compiling biographical data and collecting pictures of all persons who have served or will serve in the General Assembly of the Colony and State of North Carolina; for the purpose during the coming biennium specifically of preparing biographical sketches and collecting and mounting pictures of all members of the General Assembly who have served in the Legislative Building since 1963 and of all officers of the General Assembly from the beginning to the present; and for the purpose of preparing during the coming biennium for the publication of the first volume of a comprehensive Biographical Directory of the General Assembly of North Carolina from 1665 to the present, beginning with the most recent sessions of the General Assembly.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1514 CHAPTER 1075

AN ACT TO APPROPRIATE FUNDS TO THE CHARLOTTE SYMPHONY ORCHESTRA, INC.

Whereas, the Charlotte Symphony Orchestra, Inc., had its beginning in 1932, and through concerts and performances of the Charlotte Symphony it has made a significant contribution to the musical arts in North Carolina during the 44 years of its existence; and

Whereas, although the Charlotte Symphony was created to serve the residents of Mecklenburg County, the symphony has expanded its operations to meet a regional need for musical expression; and

Whereas, the Charlotte Symphony performs in Cabarrus, Catawba, Cleveland, Gaston, Iredell, Lincoln, Montgomery and Union Counties, as well as Mecklenburg County; and

Whereas, the performances of the Charlotte Symphony throughout this wide region have contributed greatly to the cultural enjoyment of North Carolina citizens; and

Whereas, appreciation of the fine arts has been enhanced, music education has been promoted, and wholesome entertainment has been delivered to North Carolinians throughout the region; and

Whereas, the Charlotte Symphony has served the area well through its work with young musicians in the Youth Symphony of the Carolinas; and

Whereas, the Charlotte Symphony Orchestra, Inc., presently faces a large deficit in its operating budget; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund of North Carolina for fiscal year 1977-78 to the Charlotte Symphony Orchestra, Inc., the sum of twenty-five thousand dollars ($25,000), for administrative expenses and the operation of concert programs and performances by the symphony.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1524 CHAPTER 1076

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF INSURANCE TO AVOID A WORK OVERLOAD.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Insurance, in addition to all other appropriations, the sum of one hundred thousand eight hundred ten dollars ($100,810) for the fiscal year 1977-78, and one hundred thousand eight hundred eighty-one dollars ($100,881) for the fiscal year 1978-79, for support of positions required to avoid a serious work overload.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1078 CHAPTER 1077

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR IMPLEMENTATION OF THE FOREST DEVELOPMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, or its successor agency, in addition to all other appropriations for fiscal year 1978-79, the sum of two hundred thousand dollars ($200,000) to be deposited in the Forest Development Fund created by the Forest Development Act.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1118 CHAPTER 1078

AN ACT TO APPROPRIATE ADDITIONAL FUNDS FOR THE CHRONIC RENAL DISEASE CONTROL PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources, Division of Health Services, in addition to all other funds appropriated, the sum of three hundred sixty-three thousand one hundred three dollars ($363,103) for fiscal year 1977-78 and the sum of three hundred sixty-three thousand one hundred three dollars ($363,103) for fiscal year 1978-79 for the Chronic Renal Disease Control Program. The

appropriation is for the use of the Department of Human Resources in obtaining supplies and materials for home dialysis patients; in renting equipment, such as dialysis machines and water purification systems, for home patients; in providing outpatient services for dialysis and creation of blood access and other medical assistance, primarily medications for dialysis and transplant patients and in providing other services of the Chronic Renal Disease Control Program.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1127 CHAPTER 1079

AN ACT TO MAKE A SPECIAL APPROPRIATION FOR THE NEEDS OF FORT MACON STATE PARK.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources for fiscal year 1977-78 the amount of five thousand three hundred forty-five dollars ($5,345) for the special needs of Fort Macon State Park estimated as follows:

1.	Communication System: Three 5-watt, 2-channel walkie talkies (park and county channels) with extra batteries at $1,300	Estimated cost	$3,900
2.	Scoop stretcher	Estimated cost	160
3.	Folding chairs - 40 at $8.00	Estimated cost	320
4.	Interpretative Equipment		
	Slide projector	Estimated cost	225
	Portable P. A.	Estimated cost	140
5.	Flag pole for Fort	Estimated cost	250
6.	Reference books for library	Estimated cost	350
		Total cost for above	$5,345

Sec. 2. This appropriation is in addition to any other appropriation made for the needs or benefit of Fort Macon State Park.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1138 CHAPTER 1080

AN ACT TO APPROPRIATE FUNDS FOR MALCOLM BLUE HISTORICAL SOCIETY.

Whereas, the Malcolm Blue Historical Society was formed in the fall of 1972, to preserve the Malcolm Blue Farm on Route 5, in Aberdeen; and

Whereas, Mr. A. P. Johnson, a local building contractor, in 1974, was starting a residential development on this farm when he gave the old farmhouse to the group of interested citizens. He made the stipulation that the necessary repairs be made and that it be put to community use; and

Whereas, the society raised funds and with a bicentennial grant, the necessary repairs were made to the house and a master plan was drawn up

showing the need of additional property. The site has been opened for several community activities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the State Department of Cultural Resources, Archives and History Division, to be expended for and in connection with the Malcolm Blue Historical Society for the purchase of additional land a total appropriation of six thousand dollars ($6,000).

Sec. 2. Funds appropriated by this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1154 CHAPTER 1081

AN ACT TO IMPROVE THE ADMINISTRATION OF THE FOOD STAMP PROGRAM IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The Department of Human Resources, Division of Social Services, shall develop any number of pilot programs at the county level whose purpose is to expand the food stamp program in North Carolina. The goal of these programs shall be to increase food stamp participation in these pilot counties to seventy-five percent (75%) of those people in the county identified as being eligible for the program; therefore:

(1) The Department of Human Reosurces, Division of Social Services, shall develop and approve guidelines for county participation in the pilot food stamp programs.

(2) Before a county is eligible to participate in the pilot program, a plan must be approved by the Division of Social Services. Such a plan shall include, but not be limited to the following items: a proposed staffing pattern for the pilot program, adequate certification and coupon issuance points, projections on the number of food stamp recipients to be served and projected costs of the program.

(3) In implementing the pilot food stamp programs, the Department of Human Resources, Division of Social Services, shall select from among those counties that have the greatest potential for increased participation in the food stamp program.

(4) The Department of Human Resources, Division of Social Services, shall monitor and evaluate these pilot programs, and report to the 1979 Session of the General Assembly. This report shall include an evaluation of the effectiveness and the costs of the various pilot programs, and any recommendations on the expansion of these programs on a statewide basis during the 1979-1981 biennium.

Sec. 2. There is hereby appropriated to the Department of Human Resources from the General Fund of the State, in addition to all other funds, the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1977-1978, and the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1978-1979 to implement the pilot food stamp programs.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1163 CHAPTER 1082

AN ACT TO APPROPRIATE FUNDS FOR THE CHARLOTTE OPERA ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources the sum of seventy-five thousand dollars ($75,000) for fiscal year 1977-78 for the purpose of inaugurating a pilot program by the Charlotte Opera Association to make possible a tour of the State to present opera performances to the communities of the State.

Funds appropriated pursuant to this act shall be made available to the Charlotte Opera Association on a matching ratio to be determined by the Department of Cultural Resources, and shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1171 CHAPTER 1083

AN ACT TO AMEND CHAPTER 122A OF THE GENERAL STATUTES TO AUTHORIZE THE NORTH CAROLINA HOUSING FINANCE AGENCY TO GUARANTEE LOANS FOR THE PURPOSE OF ASSISTING PERSONS AND FAMILIES OF LOWER INCOME TO LOWER HEATING COSTS IN OWNER OCCUPIED RESIDENCES, THUS REDUCING CONSUMPTION OF NONRENEWABLE SOURCES OF ENERGY; AND TO APPROPRIATE NECESSARY FUNDS FOR THIS PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122A-2 as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina is hereby amended by adding the following paragraph at the end of this section:

"The General Assembly hereby also further finds and declares that private enterprise and investment have not been able to provide, without assistance, the needed installation of energy saving materials in owner occupied residences of persons and families of lower income. It is imperative for the health, safety and welfare of these persons and the general public that their residences be suitably heated at affordable cost in order to provide decent housing; and that the consumption of nonrenewable sources of energy be reduced. Therefore, the General Assembly finds that one of the purposes of this Chapter is to assist persons and families of lower income to obtain loans for the purpose of heating their homes at affordable cost and at the same time to significantly reduce the amount of consumption of nonrenewable sources of energy."

Sec. 2. G.S. 122A-3 as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina is hereby amended by adding the following at the end of this section:

"(16) 'Energy conservation loan' means a loan obtained from a mortgage lender for the purpose of satisfying an existing obligation of a borrower who is the resident owner of a single family dwelling or of 'residential housing'. The existing obligation of the owner in an 'energy conservation loan' must have been incurred to pay for the purchase of materials or the installation of materials, or both, which results in a significant decrease in the amount of consumption of nonrenewable sources of energy in order to provide or maintain a comfortable level of room temperatures in his residence during the winter. 'Energy conservation loan' does not include a loan obtained to refinance an existing loan agreement unless payment or collection of the original loan was guaranteed by the agency."

Sec. 3. Chapter 122A of the General Statutes as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina is hereby amended by the addition of a new section to be designated G.S. 122A-5.3 and reading as follows:

"§ 122A-5.3. *Energy conservation loan authority.*—(a) The agency may guarantee the payment or collection of energy conservation loans pursuant to and in accordance with the provisions of this Chapter when the agency has given its approval prior to the initial making of the loan; provided that any such guarantee shall be made only upon determination by the agency that energy conservation loans were at the time of approval not otherwise available from private lenders upon reasonably equivalent terms and conditions; and provided further, no single guarantee of payment or collection shall exceed the sum of twelve hundred dollars ($1200) and no person or family of lower income shall be entitled to more than one loan guarantee.

(b) At no time may the agency have outstanding loan guarantees in which the liability of the agency exceeds 15 times any amounts remaining unspent from the specific funds appropriated by the General Assembly for the energy conservation loan guarantee program plus any specific grants or donations for this purpose; but the agency is authorized to expend any unspent amounts from these sources to satisfy its liabilities under the loan guarantee program; provided no other assets of the agency shall be obligated or expended in satisfaction of its energy conservation loan guarantee liability.

(c) The agency shall from time to time adopt, modify, or repeal rules and regulations governing the guaranteeing of energy conservation loans including rules and regulations as to any or all of the following:

(1) procedures for the submission and approval of requests to guarantee energy conservation loans including advance commitments by the agency to guarantee loans;

(2) limitations and restrictions on the number of family units, location or other qualifications or characteristics of residences in regard to which energy conservation work is performed to qualify for a loan guarantee;

(3) restrictions as to interest rates on energy conservation loans or the return which may be realized by mortgage lenders on energy conservation loans guaranteed by the agency;

(4) schedules of any fees and charges necessary to provide for the administrative expenses of the agency allocable to the administration of the energy conservation loan guarantee program;

(5) procedures regarding the servicing of energy conservation loan guarantees including procedures for honoring defaults and procedures to

be implemented to enforce the obligations of the borrowers to repay guaranteed energy conservation loans;

(6) any other matters related to the duties and the exercise of the power of the agency with respect to the energy conservation loan guarantee program deemed necessary to effectuate the purposes of this act."

Sec. 4. G.S. 122A-6 as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina is hereby amended by adding the following sentence at the end of the last paragraph thereof:

"Provided the provisions of this section do not apply to the liability of the agency with respect to energy conservation loan guarantees."

Sec. 5. Chapter 122A of the General Statutes as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina is hereby amended by adding the following section thereto to be designated G.S. 122A-6.1 and reading as follows:

"§ 122A-6.1. *Credit of State not pledged to satisfy liabilities under energy conservation loan guarantees.*—Energy conservation loan guarantees issued under the provisions of this Chapter shall not be deemed to constitute a debt, liability, obligation of the State or of any political subdivision thereof, or a pledge of the faith and credit of the State or of any political subdivision thereof, but shall be payable solely from any unspent specific appropriations by the General Assembly for the energy conservation loan guarantee program and any donations and grants for this specific purpose. Each guarantee issued by the agency shall contain on its face a statement to the effect that the agency shall not be obligated to pay the same nor the interest thereon except from the unspent specific appropriations by the General Assembly for the energy conservation loan guarantee program and any specific donations and grants for this purpose, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such guarantees.

Provided any recoveries from the borrower or others which ultimately reduce the amounts paid out by the agency in satisfaction of its liabilities under the energy conservation loan guarantee program shall be deemed unspent appropriations, donations or grants."

Sec. 6. There is hereby appropriated from the General Fund the sum of two hundred fifty thousand dollars ($250,000) in fiscal year 1977-78 to the North Carolina Housing Finance Agency, in addition to any other appropriations to said agency, for the specific purpose of guaranteeing energy conservation loans in accordance with the provisions of this act. The agency is authorized to pay the expenses of administering the provisions of this act from the investment income on the unspent balance of the funds herein appropriated and on any specific grants or donations.

Sec. 7. This act shall become effective September 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1189 CHAPTER 1084

AN ACT TO PROVIDE FOR THE DEVELOPMENT AND PROMOTION OF HISTORIC EDENTON AND OTHER HISTORIC SITES IN NORTHEASTERN NORTH CAROLINA.

Whereas, the northeastern area of North Carolina was the earliest settled and the most ancient portion of the Colony of North Carolina; and

Whereas, throughout North Carolina history the town of Edenton and other settlements in northeastern North Carolina provided the impetus for the settlement, growth, and development of both the colony and the State; and

Whereas, in the town of Edenton and surrounding towns and villages there remains today perhaps the most complete and intact collection of historic properties and sites from the earliest period of North Carolina history; and

Whereas, these historic properties and sites represent one of the most extensive untapped educational and tourist attractions in the State of North Carolina merely waiting to be properly developed and promoted; and

Whereas, the development and promotion of North Carolina's most distinguished and significant resources for the touring public represents one of the most important pursuits of the people of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1977-78 fiscal year the sum of forty thousand dollars ($40,000) and for the 1978-79 fiscal year the sum of forty thousand dollars ($40,000) for the purpose of establishing in Edenton a program for the development and promotion of historic Edenton and other historic sites and properties in northeastern North Carolina, such program to consist of designing and implementing plans for the physical development of and tourist visitation to such historic sites and properties as may be deemed appropriate by the North Carolina Historical Commission and the Department of Cultural Resources. Funds appropriated by this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1243 CHAPTER 1085

AN ACT TO APPROPRIATE FUNDS TO PROVIDE SERVICES TO LOCAL AND STATE HISTORICAL ORGANIZATIONS AND TO ESTABLISH A REVOLVING FUND FOR THE PUBLICATION OF LOCAL HISTORICAL WRITINGS.

Whereas, the writing and teaching of the history of North Carolina, of its peoples, and of the localities which make up the State is essential to the preservation of our common heritage; and

Whereas, there are more than 180 historical organizations in North Carolina with memberships of up to 2,500 persons, each attempting to study and preserve our history; and

Whereas, 41 of these historical organizations representing more than 5,000 individual members form the Federation of North Carolina Historical Societies

to undertake joint planning and execution of historical projects and programs; and

Whereas, the departments of history at 30 North Carolina colleges and universities have also recently combined to form the North Carolina Institute of Applied History in order to promote practical, economical, and beneficial applications of history; and

Whereas, all of these organizations are presently in need of additional assistance, guidance, and direction from North Carolina's State historical agency in order to promote a wider examination, preservation, and use of the State's historical resources; and

Whereas, all of the State's historical organizations are in need of timely assistance from North Carolina's State historical agency in such matters as the publication of local historical writings and other scholarly and historical studies which will promote a greater understanding, appreciation, and utilization of the State's historical resources as well as a greater utilization of local historical resources; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for fiscal year 1977-78 the sum of fifteen thousand one hundred sixty-six dollars ($15,166) and for fiscal year 1978-79 the sum of fourteen thousand six hundred fifty-eight dollars ($14,658) to provide services to North Carolina's historical organizations in establishing a revolving fund for the publication of local historical writings.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1251 Chapter 1086

AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA MUSEUM OF LIFE AND SCIENCE.

Whereas, the North Carolina Museum of Life and Science, located in Durham, North Carolina, has, over the past 30 years, provided millions of the residents of this State with a Museum of Life and Science; and

Whereas, the museum has permanent displays of our environment, space exploration and historical data dealing with our total background; and

Whereas, the museum had 400,000 visitors representing people from 40 or more counties in the State; and

Whereas, the City and County of Durham did in 1975 furnish one hundred ten thousand dollars ($110,000) in operating costs; and

Whereas, the museum now owns 28 acres of land, has many buildings and exhibits and now needs additional funds for capital improvements and for expansion; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated for the 1977-79 biennium from the General Fund to the Department of Cultural Resources for the continuation of capital improvements and operating funds the sum of one hundred thousand dollars ($100,000) for the use and benefit of the North Carolina Museum of Life

and Science, to be paid at the rate of fifty thousand dollars ($50,000) per year for each year of the biennium.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1279 CHAPTER 1087

AN ACT TO AUTHORIZE THE DEPARTMENT OF HUMAN RESOURCES TO EXTEND COVERAGE UNDER THE CRIPPLED CHILDREN'S PROGRAM TO PERSONS WITH CYSTIC FIBROSIS WHO ARE TWENTY-ONE YEARS OF AGE OR OLDER AND TO APPROPRIATE FUNDS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. The Department of Human Resources is hereby authorized to extend coverage under the Crippled Children's Program to persons with cystic fibrosis who are twenty-one years of age or older. Coverage shall be extended to said persons under the same conditions, requirements and criteria as are applicable to persons under the age of twenty-one.

Sec. 2. There is hereby appropriated from the General Fund of the State of North Carolina to the Department of Human Resources, Division of Health Services in addition to all other funds appropriated, the sum of seventy-five thousand dollars ($75,000) for the 1977-78 fiscal year and the sum of seventy-five thousand dollars ($75,000) for the 1978-79 fiscal year for the purposes specified in Section 1.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1113 CHAPTER 1088

AN ACT TO AMEND HOUSE BILL 1113 DATED MAY 6, 1977, TO PROVIDE INCREASED SUPPORT OF LIBRARY/MEDIA PERSONNEL IN THE PUBLIC SCHOOLS THROUGH AN ALLOCATION OF FUNDS.

Whereas, it is the generally accepted belief of educators, students, parents, and other citizens of the State that the library/media center is an essential base on which all instructional programs must be built; and

Whereas, there are 574 schools or nearly one-fourth of the total number of schools in North Carolina that have no full-time certified librarian; and

Whereas, the growing urgency to find improved ways of insuring that every child reads up to the level of his potential cannot be effectively implemented in the absence of adequate library/media services; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the State Board of Education for 1977-78 five hundred thousand dollars ($500,000) for the purpose of providing library/media personnel in the schools of North Carolina.

Sec. 2. The State Board of Education is authorized to promulgate rules and regulations for the distribution of library/media personnel funds, on the

basis of average daily membership (ADM), to each administrative unit of the State.

Sec. 3. Each city and county administrative unit in the State shall employ library/media personnel in accordance with State library/media guidelines approved by the State Board of Education insofar as funds are approved for that purpose by the North Carolina General Assembly.

Sec. 4. Chapter 965 of the 1975 Session Laws and its codification in G.S. 115-59(b) and G.S. 115-206.24 are repealed.

Sec. 5. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 918 **CHAPTER 1089**

AN ACT TO AMEND CHAPTER 1418 OF THE 1973 SESSION LAWS RELATING TO THE FINANCING OF PUBLIC ASSISTANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1418 of the 1973 Session Laws is hereby amended to read as follows:

"Section 1. G.S. 108-54 is hereby amended to read as follows:

'§ 108-54. *Determination of State and county financial participation.*—Before March 15 of each year the director of social services for every county shall compile and submit to the county board of social services an estimated budget of total county funds required to finance each program of public assistance, including all administrative expenses, within the county in the next fiscal year on forms furnished by the Department of Human Resources. The county board of social services shall review, modify, and approve such estimated budget and transmit it before April 1 to the board of county commissioners, which shall review, modify and approve it before April 15 for transmittal by said date to the Department of Human Resources. The Director of the Division of Social Services, as agent for the Department of Human Resources, shall review the estimated budget submitted by each county and shall notify the board of county commissioners by June 1 of the approval or disapproval of the county's estimated budget of total county funds necessary to support and administer adequate programs of public assistance.

If the Director of the Divison of Social Services approves the estimated budget submitted by the county, and if administrative and program expenditures for that year in the county's Aid to Families with Dependent Children, Medical Assistance, State-county Special Assistance for Adults, WIN Single Administrative Unit, WIN Day Care, and State Boarding Home Fund for Foster Care programs exceed the approved estimate of administrative and program costs for said programs, or if the administrative expenditures for that year in the county's Food Stamp program exceed the approved estimate of administrative costs for said program, then the county shall be eligible to borrow the required additional county share from the "State Public Assistance Contingency Fund" established in G.S. 108-54.1.

If the Director of the Division of Social Services disapproves the estimated budget of the county, he shall recommend an appropriate budget of total county funds necessary to sustain and administer adequate programs of public assistance whose acceptance by the board of county commissioners shall be a

condition precedent to borrowing any moneys from the "State Public Assistance Contingency Fund" established in G.S. 108-54.1; provided that, if the board of county commissioners disputes the budget recommended by the Director of the Division of Social Services as appropriate to sustain and administer adequate programs of public assistance within that county, the Secretary of Human Resources shall make a final determination that shall be binding upon the county.

Upon final determination of the county budget for all programs of public assistance within that county for the next fiscal year, the board of county commissioners shall levy taxes sufficient to provide for the payment of the county's share of such budget as well as for repayment of any amount borrowed from the "State Public Assistance Contingency Fund"."

Sec. 2. Section 2 of Chapter 1418 of the 1973 Session Laws is hereby amended to read as follows:

"Sec. 2. Chapter 108 of the General Statutes is hereby amended by adding the following section immedidately following G.S. 108-54, to be numbered G.S. 108-54.1 and to read as follows:

'§ 108-54.1. *State Public Assistance Contingency Fund.*—(a) To allow for an efficient and equitable means of providing the funds by which a county exceeds its approved estimated budget of administrative and program costs for those programs of public assistance enumerated in G.S. 108-54 within that county during the fiscal year, the Department of Human Resources is authorized and empowered to establish from appropriations made by the General Assembly and from grants of the federal government (when such grants are made available to the State) a fund to be known as the "State Public Assistance Contingency Fund". This fund shall be used exclusively to provide loans to counties whose expenditures for said programs of public assistance, including administration of such programs, have exceeded the accepted budget estimate.

(b) Loans shall be made to the counties at any time during the fiscal year by the Director of the Division of Social Services, as agent for the Department of Human Resources, when satisfied of the county's need for such loan under this Part.

(c) The loans provided by this section shall be used by the counties entitled to them solely to supplement the funds appropriated by the county to support the budget determined pursuant to G.S. 108-54 to be necessary to sustain and administer adequate programs of public assistance within the county and only when such budget is exceeded during the fiscal year for those programs of public assistance specifically enumerated in G.S. 108-54.

(d) Any amount borrowed by a county from the "State Public Assistance Contingency Fund" during one fiscal year shall be repaid to said fund within the next two fiscal years.'"

Sec. 3. Section 6 of Chapter 1418 of the Session Laws of 1973 is hereby amended to read as follows:

"Sec. 6. This act shall become effective on July 1, 1974."

Sec. 4. It is the intent of this act to amend Sections 1 and 2 and to continue in effect Sections 3, 4 and 5 of Chapter 1418 of the Session Laws of 1973.

Sec. 5. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1300 **CHAPTER 1090**

AN ACT REVISING BENEFITS OF THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166(i), as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting therefrom the first two lines of the second paragraph, and the third line up to and including the word "Board" and substituting in lieu thereof the following:

"In order for an officer to be eligible for retirement benefits under this Article, he shall contribute into the fund herein created six percent (6%) of his compensation received for each pay period beginning on or after July 1, 1977. Such rate shall apply uniformly to all members of the Law Enforcement Officers' Benefit and Retirement Fund, without regard to their coverage under the Social Security Act. The mode of payment to the fund shall be determined by the Board of Commissioners."

G.S. 143-166(i), as the same appears in the 1975 Supplement to Volume 3C of the General Statutes, is further amended by deleting from lines 4 and 8 of the second paragraph the word "voluntarily".

G.S. 143-166(i) is further amended by deleting from line 3 of the fourth paragraph the word "matching" and substituting in lieu thereof the words "Five percent (5%)".

G.S. 143-166 is further amended by adding thereto a new subsection (x) to read as follows:

"(x) notwithstanding any of the foregoing provisions, the benefits to each beneficiary on the retirement rolls as of June 30, 1977, shall be increased by five percent (5%) of the benefits being received by each such beneficiary as of June 30, 1977."

G.S. 143-166 is hereby further amended by adding thereto a new subsection (y) to read as follows:

"(y) Notwithstanding any of the foregoing provisions, a member upon retirement in accordance with subsection (1) of Section 5 of Rules and Regulations incorporated and effected July 1, 1973, by the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund, shall receive a basic service retirement allowance equal to one and fifty-five one hundredths percent (1.55%) of his average final compensation, multiplied by the number of years of his creditable service, and reduced by one third of one percent (1/3 of 1%) for each month by which his date of retirement precedes his 55th birthday, except that no such reduction in the basic service retirement allowance shall apply to any member who has 30 or more years of creditable service at the time of his retirement, and any member who retires with 30 or more years of creditable service shall be considered eligible for benefits at any age.

Any member upon retirement in accordance with subsection (3) of Section 5 of Rules and Regulations incorporated and effected July 1, 1973, by the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund shall receive a basic disability retirement allowance equal to one and fifty-five one hundredths percent (1.55%) of his average final compensation multiplied by the number of years of creditable service which he would have

had if he had continued in service until his 55th birthday. Average final compensation shall mean the average annual compensation of a member during the four consecutive years of membership service (48 consecutive employment months) that produce the highest average annual compensation."

G.S. 143-166(j) is hereby rewritten as follows:

"All officers who have contributed to the Retirement Fund herein provided for, and who have at least 15 years of creditable service in the fund, shall be eligible for reduced retirement benefits at age 50. The Board of Commissioners is authorized, under the rules and regulations promulgated by it, to determine when an officer has accumulated at least 15 years of creditable service, and it shall not be necessary that the member be actively employed as an officer at the time of his application for retirement benefits.

All officers who have contributed to the Retirement Fund herein provided for, and who have at least 10 years of membership service in the fund, shall be eligible for retirement benefits at age 55. The Board of Commissioners is authorized, under the rules and regulations promulgated by it, to determine when an officer has accumulated at least 10 years of membership service, and it shall not be necessary that the member be actively employed as an officer at the time of his application for retirement benefits."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1301 CHAPTER 1091

AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS TO THE DEPARTMENT OF HUMAN RESOURCES FOR ALLOCATION TO THE MORTON PRITCHARD ALCOHOLIC REHABILITATION FARM IN JOHNSTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources, Division of Mental Health Services, for allocation to the Morton Pritchard Alcoholic Rehabilitation Farm in Johnston County the sum of twenty-five thousand dollars ($25,000), in addition to other appropriations, for the fiscal year 1977-78 to be used for the rehabilitation of alcoholics.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1303 **CHAPTER 1092**

AN ACT TO AUTHORIZE THE TRANSFER OF FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE PURPOSE OF DEVELOPMENT AND OPERATION OF THE HISTORIC SEABOARD COASTLINE BUILDING AS A RAILROAD MUSEUM.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, for development of the Seaboard Coastline Building as an historic site as set forth in Chapter 607 of the 1977 Session Laws, the sum of eighteen thousand seventy-five dollars ($18,075) for fiscal year 1977-78, and the sum of eighteen thousand seven hundred eighty-nine dollars ($18,789) for fiscal year 1978-79.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1387 **CHAPTER 1093**

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE ACQUISITION, PLANNING AND STABILIZATION OF THE HISTORIC SOUTHERN RAILWAY SPENCER SHOPS.

Whereas, the development of transportation has made an immeasurable contribution to all the citizens of the State; and

Whereas, roads, highways, waterways and railroads have played an important role in the economic, social and cultural history of the State from the earliest days of settlement to the present; and

Whereas, thousands of North Carolinians have devoted their minds, talents and labors to the development of transportation and transportation technology throughout the history of the State; and

Whereas, the State has the opportunity to obtain what was the largest repair shop and freight handling facility in the South during the age of steam and which remains one of the last great railroad shops in the United States; and

Whereas, the Southern Railway Shops of Spencer, North Carolina, face imminent destruction unless the State obtains the shops; and

Whereas, the Spencer Shops include both structures unique to railroading and adequate space to present and display other modes of transportation which have played important roles in the growth of this State; and

Whereas, countless North Carolina transportation artifacts are being destroyed or removed to other states for public display; and

Whereas, the Southern Railway Company has agreed to sell land and donate historic structures of the Spencer Shops for the establishment of a State Historic Site of Transportation; and

Whereas, it is desirable to preserve and interpret the history of transportation and to give special public recognition to North Carolina's transportation history; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1977-1978 in addition to all

other appropriations to that department the sum of eighty thousand dollars ($80,000) and for fiscal year 1978-1979 the sum of eighty thousand dollars ($80,000) in order that the department may acquire, and provide for planning and stabilization of the Historic Southern Railway Shops in Spencer, North Carolina.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1422 CHAPTER 1094

AN ACT TO APPROPRIATE FUNDS TO THE BOARD OF GOVERNORS FOR A SUMMER PILOT READING CLINIC.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Board of Governors of The University of North Carolina for fiscal year 1977-78 the sum of fifty-five thousand dollars ($55,000) for the purpose of establishing within the University system a pilot reading clinic to provide diagnostic, prescriptive and remedial services to children with reading disabilities, to serve as a training facility for reading specialists and to serve as one model for teachers who might, in turn, provide clinical services in their own schools or administrative units.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1500 CHAPTER 1095

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR THE THIRD PARTY LIABILITY COLLECTION OPERATION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources, Division of Social Services for the third party liability collection operation the sum of one hundred thirteen thousand nine hundred twenty dollars ($113,920) for fiscal year 1977-78 and the sum of one hundred nineteen thousand six hundred ninety-eight dollars ($119,698) for fiscal year 1978-79.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1518 CHAPTER 1096

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE FOR AN EXPANDED JAPANESE BEETLE AND FIRE ANT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Agriculture, in addition to all other funds, the sum of one hundred thousand dollars ($100,000) in fiscal year 1977-78 to be used in funding an expanded Japanese Beetle and Fire Ant program.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1521 CHAPTER 1097

AN ACT DIRECTING THE GOVERNMENT OPERATIONS COMMISSION TO STUDY REGIONAL COUNCILS OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Joint Legislative Commission on Governmental Operations, as structured by G.S. 120-71 et seq., shall study the statutory powers and duties of regional councils of governments as contained in Article 20, Part 2, of Chapter 160A of the General Statutes, to determine whether these duties and powers should be amended by the General Assembly. The commission shall report to the 1979 General Assembly.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1522 CHAPTER 1098

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR SOIL MAPPING MATCHING GRANTS.

Whereas, adequate and accurate information concerning soil resources is essential in making sound economic growth decisions related to agriculture, transportation facility siting, economic development, recreational and other uses; and

Whereas, at the current rate of production, the State's soil would not be completely mapped until the end of the century; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund the sum of two hundred thousand dollars ($200,000) in each fiscal year of the 1977-79 biennium to the Department of Natural and Economic Resources to be used to match local government contributions for the production of soil maps.

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 89 **CHAPTER 1099**

AN ACT TO PROVIDE ASSISTANCE TO COUNTIES FOR IMPROVEMENT OF LAND RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 102 of the North Carolina General Statutes is amended by adding the following sections:

"§ 102-15. *Improvement of land records.*—There is hereby established a statewide program for improvement of county land records to be administered by the Secretary of the Department of Administration (hereafter called the secretary). First emphasis shall be given to the completion of countywide base maps. Counties with a base map system prepared to acceptable standards will be encouraged to undertake subsequent logical improvements in their respective land records systems. Work undertaken by any county under this program will be eligible for financial assistance out of funds appropriated for this purpose to the Department of Administration. The amount allotted to each project is to be determined by the secretary, but in no case shall such allotments exceed one dollar for every dollar of local tax funds expended on the project by the county. Federal or other State funds available to the project will not be eligible as matching money under the State program.

"§ 102-16. *Board of county commissioners to apply for assistance.*—The board of county commissioners of each county may apply to the secretary, upon forms provided by him and in accordance with directives and requirements outlined in G.S. 102-17, for assistance in completing one or more projects. Such project or projects shall constitute one or more phases of a plan for the improvement of the county's land records. The work to be undertaken shall be described in relation to the county's revaluation schedule, and it shall be shown to be a part of a larger undertaking for achieving ultimate long-term improvements in the land records maintained by the county register of deeds, the county tax supervisor, or other county office.

"§ 102-17. *County projects eligible for assistance.*—All projects funded under this assistance program shall be described as conforming to one or more of the project outlines defined herein. All projects shall achieve a substantial measure of conformity with the objectives set forth in these project outlines such that a greater degree of statewide standardization of land records will result. The secretary shall prepare and make available to all counties administrative regulations designed to assist the counties in preparing project plans and applications for assistance, and to assure compliance with the objectives and other requirements of G.S. 102-15, G.S. 102-16, and this section. County projects shall be eligible for assistance subject to availability of funds, compliance with administrative regulations, and conformity with one or more of the project outlines as follows:

(1) Base maps. Preparation of accurate planimetric or orthophoto maps with countywide coverage at one or more scale ratios suitable as a base for the development and maintenance of current cadastral maps. These maps shall have additional information included where appropriate to increase their utility for other purposes. The formulation of technical standards and detailed specifications and the coordination of all such mapping projects with other State mapping programs shall be the responsibility of the Department of Natural and Economic Resources. Insofar as possible mapping projects funded

under this assistance program shall utilize existing photography, geodetic control surveys, and previously mapped information, and be coordinated or combined with adjacent or related mapping projects to achieve the best efficiency and economy consistent with the maintenance of high quality map production.

(2) Cadastral maps. Preparation of accurate maps of all property boundaries together with other supporting information and based on up-to-date planimetric or orthophoto maps conforming to the specifications for base maps outlined in subsection (1) of this section. The formulation of specifications and standards for these cadastral maps shall be the responsibility of the Department of Revenue. These specifications and standards shall be designed to conform to the best acceptable practice for county land records in North Carolina. The cadastral maps shall be scheduled as nearly as possible to be completed and made available for the next revaluation cycle to be undertaken by each county and the maps shall include references to subdivision plat numbers, property codes, and other related information considered useful to the appraisal process or to the public generally.

(3) Standardized parcel identifiers. Adoption of a system of parcel identifiers which will serve to provide unique identification of each parcel of land, a permanent historical record of change and the chain of title, and any necessary cross-reference to other pre-existing parcel identifiers. The proposed system of parcel identifiers shall conform to such minimum specifications and standards as may be promulgated by the secretary for the purpose of achieving consistency and compatibility among all counties throughout the State. Said minimum specifications and standards for parcel identifier systems shall be adopted and administered by the secretary only after consultation with the recommendation from an advisory committee on land records with a membership representative of professional organizations concerned with public land records and map making.

(4) Automated processing of land parcel records. Preparation and implementation of a system of automated record keeping and processing which will expedite the maintenance of accurate up-to-date files, improve the appraisal process, and facilitate analytical operations needed to respond to requirements for current information. Technical standards and minimum specifications shall be the joint responsibility of the Department of Administration, the Department of Revenue, and the Department of Cultural Resources."

Sec. 2. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 857 **CHAPTER 1100**

AN ACT TO APPROPRIATE FUNDS FOR THE CONSTRUCTION AND/OR OPERATION OF CERTAIN FARMERS' MARKETS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Cumberland County Farmers' Produce and Craft Market, Inc., from the General Fund, the sum of fifty thousand dollars ($50,000) for fiscal year 1977-78, to be used by the corporation for the operation of a farmers' market on Southern Avenue in the City of Fayetteville.

Sec. 2. There is hereby appropriated from the General Fund to the Department of Agriculture to be used in completing the Western North Carolina Farmers' Market at Asheville the sum of three hundred thousand dollars ($300,000) for fiscal year 1978-79 (originated in HB 1055/SB 625).

Sec. 3. There is hereby appropriated from the General Fund to the Town of Carrboro the sum of twenty-five thousand dollars ($25,000) for fiscal year 1977-78 to be used by the town for the construction and operation of a farmers' market. This appropriation is contingent upon the Town of Carrboro matching this appropriation by entering into a lease or purchase agreement which commits the town to pay at least twenty-five thousand dollars ($25,000) to acquire a tract of land that may be used as the site of the farmers' market. The Town of Carrboro is hereby authorized to construct and operate a farmers' market and for this purpose may appropriate funds not otherwise limited as to use by law (originated in HB 1467).

Sec. 4. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 897 **CHAPTER 1101**

AN ACT TO PROVIDE AN ADDITIONAL TAX EXEMPTION FOR PERSONS HAVING CHRONIC IRREVERSIBLE RENAL DISEASE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-149, as the same appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes is amended to add the following new exemption to be inserted between subdivisions (a)(8a) and (a)(9) as follows:

"(8b) In the case of persons suffering from chronic irreversible renal disease, whose condition requires that they utilize dialysis in connection with the amelioration of their condition, such persons shall be entitled to an additional exemption of one thousand dollars ($1,000) in addition to all other exemptions provided by law. Persons eligible for this exemption shall be those who submit to the Division of Health Services of the Department of Human Resources a certificate from a physician or county health department certifying that their condition is such that dialysis is required, as above provided, and who attach a supporting statement to their North Carolina income tax return, including verification that said certificate has been obtained and submitted to the Division of Health Services of the Department of Human Resources.

An additional exemption of one thousand dollars ($1,000) is allowed in addition to all other exemptions provided by law, for each dependent (as

defined in subdivision (a) above) who suffers from chronic irreversible renal disease and who meets the criteria set out in the above paragraph. The Division of Health Services of the Department of Human Resources is hereby directed to develop said certificate and inform physicians and county health departments of its availability."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1156 CHAPTER 1102

AN ACT TO AMEND G.S. 20-218 PERTAINING TO SCHOOL ACTIVITY BUS SPEED LIMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-218 as the same appears in the 1975 Replacement Volume 1C of the General Statutes is amended on line 20 of such section by inserting after the word "unlawful" and before the word "to", the following language: "for anyone other than a person 21 years old or older who holds a school bus driver's certificate or a chauffeur's license".

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1306 CHAPTER 1103

AN ACT VALIDATING CERTAIN DEEDS EXECUTED BY COUNTIES BEFORE JANUARY 1, 1977.

The General Assembly of North Carolina enacts:

Section 1. Amend G.S. 160A-18 by deleting Subsection (c) and adding new Subsections "(c)" and "(d)" to read as follows:

"(c) All conveyances of any interest in real property by private sale, including conveyance in fee, made by the governing body of any county before January 1, 1977 are hereby validated, ratified, and confirmed notwithstanding the fact that such conveyances were made by private sale, without advertisement, and not after notice and public outcry.

(d) Nothing in this section shall affect any action or proceeding begun before January 1, 1977."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1347 **CHAPTER 1104**

AN ACT TO AMEND DAY CARE LAWS TO PROVIDE THAT FENCE REQUIREMENTS WILL NOT BE APPLICABLE TO FACILITIES OPERATED IN PUBLIC SCHOOL BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-91(6) is hereby amended by deleting the period at the end thereof, and adding the following:

"; provided, however, that a facility operated in a public school shall be deemed to have adequate fencing protection."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1404 **CHAPTER 1105**

AN ACT TO AMEND THE FELONY FIREARMS ACT TO INCLUDE DRUG VIOLATORS, ADD WEAPONS OF MASS DEATH AND DESTRUCTION TO THE ONES FELONS ARE PROHIBITED TO POSSESS, MAKE THE ACT AGAIN APPLICABLE TO OUT-OF-STATE FELONY-LEVEL OFFENSES.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 14-415.1(a) is rewritten to read as follows:

"(a) It shall be unlawful for any person who has been convicted of any crime set out in subsection (b) of this section to purchase, own, possess, or have in his custody, care, or control any handgun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c), within five years from the date of such conviction, or the unconditional discharge from a correctional institution, or termination of a suspended sentence, probation, or parole upon such conviction, whichever is later."

Sec. 2. The first two sentences of G.S. 14-415.1(b) are deleted and the following substituted in lieu thereof:

"(b) Prior convictions which cause disentitlement under this section shall only include:

(1) felonious violations of Articles 3, 4, 6, 7, 8, 10, 13, 14, 15, 17, 30, 33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of Article 5 of Chapter 90 of the General Statutes;

(2) common law robbery and common law maim; and

(3) violations of criminal laws of other states or of the United States substantially similar to the crimes covered in subdivisions (1) and (2) which are punishable where committed by imprisonment for a term exceeding two years. When a person is charged under this section, records of prior convictions of any offense, whether in the courts of this State, or in the courts of any other state or of the United States, shall be admissible in evidence for the purpose of proving a violation of this section. The term 'conviction' is defined as a final judgment in any case in which felony punishment, or imprisonment for a term exceeding two years, as the case may be, is permissible, without regard to the plea entered or to the sentence imposed."

Sec. 3. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1408 CHAPTER 1106

AN ACT TO CLARIFY THE ELEMENTS OF THE CRIME OF SAFECRACKING, MAKE IT APPLY WHEN THE SAFE OR VAULT IS UNLAWFULLY OPENED WITHOUT THE USE OF FORCE, AND EXTEND THE CRIME TO COVER HAULAWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-89.1 is rewritten to read as follows:

"§ 14-89.1. *Safecracking.*—(a) A person is guilty of safecracking if he unlawfully opens, enters, or attempts to open or enter a safe or vault:

(1) by the use of explosives, drills, or tools; or

(2) through the use of a stolen combination, key, electronic device, or other fraudulently acquired implement or means; or

(3) through the use of a master key, duplicate key or device made or obtained in an unauthorized manner, stethoscope or other listening device, electronic device used for unauthorized entry in a safe or vault, or other surreptitious means; or

(4) by the use of any other safecracking implement or means.

(b) A person is also guilty of safecracking if he unlawfully removes from its premises a safe or vault for the purpose of stealing, tampering with, or ascertaining its contents.

(c) Safecracking is a felony punishable by imprisonment for a term of not less than two nor more than 30 years."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1491 CHAPTER 1107

AN ACT TO REPEAL G.S. 45-40 CONCERNING THE ENTRY OF SATISFACTION ON THE REAL PROPERTY INDEXES IN COUNTIES USING COMPUTERIZED INDEXING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-40 is amended by adding on line 14 of G.S. 45-40, after the period following the word "satisfied" the following:

"This statute shall not apply to counties using computerized indexing."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1534 CHAPTER 1108

AN ACT TO AMEND CHAPTER 917 OF THE 1977 SESSION LAWS SO AS TO CONFORM TO APPLICABLE FEDERAL LAWS.

The General Assembly of North Carolina enacts:

Section 1. In order to obtain conformity with the requirements of Regulation Z of the Federal Reserve Board (The Truth-in-Lending Act), Chapter 917 of the 1977 Session Laws of North Carolina is amended by rewriting subsection (d) of G.S. 24-11 to read as follows:

"(d) The term 'billing date' shall mean any date selected by the creditor and the bill for the balance of the account must be mailed to the customer at least 14 days prior to the date specified in the statement as being the date by which payment of the new balance must be made in order to avoid the imposition of any finance charge."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 341 CHAPTER 1109

AN ACT TO DEFINE THE PRACTICE OF CHIROPRACTIC, AND GUARANTEE FREEDOM OF CHOICE TO PATIENTS, AND TO SPECIFY THE AREAS OF EXPERTISE OF CHIROPRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-143 is amended by striking the words, language and punctuation beginning on line 5 of the 1975 Replacement Volume 2C, General Statutes of North Carolina, beginning with the word "It" and continuing through the period at the end of the section and by substituting in lieu thereof the following:

"It shall be the duty of the North Carolina State Board of Chiropractic Examiners (hereinafter referred to as 'board') to examine for license to practice chiropractic every applicant who complies with the following provisions: He shall, before he is admitted to examination, furnish proof of good moral character and satisfy the board that he has completed two years of prechiropractic college education and received credits for a minimum of 60 semester hours. He shall exhibit a diploma or furnish proof of graduation from a chiropractic college accredited by the Council on Chiropractic Education or holding recognized candidate for accreditation status with the Council on Chiropractic Education or a college teaching chiropractic that, in the board's opinion, meets the equivalent standards established by the Council on Chiropractic Education, requiring an attendance of not less than four academic years, and supplying such facilities for clinical and scientific instruction, as shall meet the approval of the board. The examination shall include but not be limited to the following studies: neurology, chemistry, pathology, anatomy, histology, physiology, embryology, dermatology, diagnosis, microscopy, gynecology, hygiene, eye, ear, nose and throat, orthopody, diagnostic radiology, jurisprudence, palpatation, nerve tracing, chiropractic philosophy, theory, teaching and practice of chiropractic.

Provided further, that the said board may license by reciprocity, upon application, any chiropractor holding a license issued to him by a regular board

of chiropractic examiners in another state when said board is satisfied that such applicant has educational qualifications equal to those prescribed by said board for admission to practice chiropractic in this State, and upon proof of good moral character and that he has practiced chiropractic under such license for at least one year."

Sec. 2. G.S. 90-153 is amended by removing the period after the word "public" on the last line thereof and by adding the following punctuation and words:", and shall have access to diagnostic x-ray records and laboratory records relating to the chiropractor's patient."

Sec. 3. Article 8 of Chapter 90 of the General Statutes is amended by adding two new sections thereto, as follows:

"§ 90-157.1. *Free choice by patient guaranteed.*—No agency of the State, county or municipality, nor any commission or clinic, nor any board administering relief, social security, health insurance or health service under the laws of the State of North Carolina shall deny to the recipients or beneficiaries of their aid or services the freedom to choose a duly licensed chiropractor as the provider of care or services which are within the scope of practice of the profession of chiropractic as defined in this Chapter."

"§ 90-157.2. *Doctor of Chiropractic as expert.*—A Doctor of Chiropractic, for all legal purposes, shall be considered an expert in his field and, when properly qualified, may testify in a court of law as to etiology, diagnosis, prognosis, and disability, including anatomical neurological, physiological, and pathological considerations within the scope of chiropractic."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 819 CHAPTER 1110

AN ACT TO AMEND THE GENERAL STATUTES RELATING TO FEES CHARGED FOR VITAL RECORDS SERVICES IN ORDER TO RECOVER THE ACTUAL COST OF THE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-66(c) is hereby amended by deleting the words and symbols "two dollars ($2.00)" from the first and second lines of the subsection and substituting therefor the words and symbols "three dollars ($3.00)".

Sec. 2. G.S. 130-48(a) is hereby amended by deleting from the eleventh line of the text of the subsection the words and symbols "two dollars ($2.00)" and substituting therefor the words and symbols "three dollars ($3.00)".

Sec. 3. G.S. 130-49 is hereby amended by deleting from the seventeenth and eighteenth lines of the text of the section the words and symbols "two dollars ($2.00)" and substituting therefor the words and symbols "three dollars ($3.00)".

Sec. 4. G.S. 130-60(b) is hereby amended by deleting the words and symbols "five dollars ($5.00)" from the third and fourth lines of the subsection and substituting therefor the words and symbols "seven dollars and fifty cents ($7.50)".

Sec. 5. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 928 CHAPTER 1111

AN ACT TO AMEND G.S. 54-33.3 TO ALLOW FEWER THAN TEN STATE CHARTERED SAVINGS AND LOAN ASSOCIATIONS TO INVEST IN SERVICE CORPORATIONS AND TO ALLOW THE ADMINISTRATOR TO APPROVE PERMITTED DATA PROCESSING ACTIVITIES OF SUCH SERVICE CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-33.3 is hereby amended by adding thereto the following new subsection (4):

"(4) Invest in the capital stock, obligations or other securities of any service corporation organized under the laws of the State of North Carolina when the entire capital stock of such corporation is owned or is to be owned, by one or more, but less than 10 State associations who may join in said stock ownership with one or more, but less than 10, federal savings and loan associations whose principal offices are in the State; but no association may make any investment in such corporation if its aggregate investment as determined by the Administrator of the Savings and Loan Division of North Carolina would exceed one percent (1%) of its assets. Such service corporation shall be subject to audit by the Administrator of the Savings and Loan Division of North Carolina, and the cost of such audit shall be borne by such corporation. Such service corporation may engage in such data processing activities as are approved as of the date of enactment of this section by the Federal Home Loan Bank Board for service corporations for federal savings and loan associations whose principal offices are in the State of North Carolina and such additional data processing activities as are from time to time approved by the Administrator of the Savings and Loan Division of North Carolina subject to the direction and approval of the Savings and Loan Commission. However, nothing in this act shall permit these service corporations to perform data processing activities for commercial customers other than Savings and Loan Associations."

Sec. 2. Nothing in this act shall be interpreted to restrict or limit State chartered savings and loan associations from forming service corporations and conducting such activities as are otherwise authorized by G.S. 54-33.3(1) and G.S. 54-21.2(d) and regulations pursuant thereto.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1237 CHAPTER 1112

AN ACT TO ESTABLISH THE NORTH CAROLINA STATE INDIAN HOUSING AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created and established a public body corporate and politic to be known as the North Carolina State Indian Housing Authority.

Sec. 2. The State Indian Housing Authority, hereafter referred to as the authority, shall exercise its powers to provide housing for Indians of low income. Except as otherwise provided in this act, all the provisions of law

applicable to housing authorities created for municipalities pursuant to Chapter 157 of the General Statutes shall be applicable to this authority, unless a different meaning clearly appears from the context. The Governor and the Commission of Indian Affairs are hereby authorized to exercise all appointing and other powers with respect to this authority that are vested pursuant to said Chapter 157 in the chief executive officer and governing body of a municipality.

Sec. 3. The authority shall consist of five commissioners who shall be appointed by the Governor. Commissioners shall be selected from the following major groups of North Carolina Indians: the Haliwa, the Coharie, the Waccamaw Siouan, and the Lumbee tribes; and the Cumberland County, Guilford, and Metrolina Associations. No person shall be barred from serving as a commissioner because he is a tenant or home buyer in an Indian housing project.

Sec. 4. The area of operation of the authority shall include the entire State: Provided, that the authority shall not undertake any housing project or projects within the area of operation of any city, county or regional housing authority unless a resolution shall have been adopted by such city, county or regional housing authority declaring that there is a need for the State Indian Housing Authority to exercise its powers within such city, county or regional housing authority's area of operation.

Sec. 5. Rentals and tenant selection in connection with projects of the authority shall be in accordance with G.S. 157-29, except that tenants in such projects shall be Indians.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 985 CHAPTER 1113

AN ACT TO INCREASE THE MEMBERSHIP OF THE TEXTBOOK COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-206.3, as the same now appears in the 1975 Replacement Volume 3A of the General Statutes, is hereby rewritten to read as follows:

"§ 115-206.3. *Appointment of Textbook Commission.*—Shortly after assuming office, the Governor shall appoint a Textbook Commission of 14 members who shall hold office for four years, or until their successors are appointed and qualified. The members of the commission shall be appointed by the Governor upon recommendation of the State Superintendent. Six of these members shall be teachers or principals in the elementary grades; five shall be teachers or principals in the high school grades; and one shall be a superintendent of a county or city school administrative unit. One of these members shall be the parent of an elementary student, grades K-6, at the time of appointment and the other shall be the parent of a high school student, grades 7-12, at the time of appointment. The Governor shall fill all vacancies by appointment for the unexpired term. The commission shall elect a chairman, subject to the approval of the State Superintendent. The members shall be entitled to compensation for each day spent on the work of the commission as approved by the board and to reimbursement for travel and subsistence expense

incurred in the performance of their duties at the rates specified in G.S. 138-5(a). Such compensation shall be paid from funds available to the State Board of Education."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 102 CHAPTER 1114

AN ACT TO REVISE THE INTEREST RATE ON TAX ASSESSMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-241.1 is amended by rewriting subsection (i) thereof in its entirety to read as follows:

"(i) All assessments of taxes or additional taxes (exclusive of penalties assessed thereon) shall bear interest from the time said taxes or additional taxes were due to have been paid until paid. The rate of interest is nine percent (9%) per annum, computed at three-fourths percent (3/4%) per month or fraction thereof, or such adjusted rate as is established by the Secretary of Revenue. The secretary may, not later than December 1 of any year, establish an adjusted rate to be in effect during the next succeeding calendar year, which rate shall conform to the adjusted rate, if any, established by the Secretary of the Treasury under Section 6621 of the United States Internal Revenue Code. If the secretary fails to take such action by December 1, the interest rate for the next succeeding calendar year shall be nine percent (9%)."

Sec. 2. G.S. 105-263 is amended by rewriting the last sentence thereof, to read as follows:

"Interest, at the rate established pursuant to G.S. 105-241.1 (i), from the time the report or return was originally required to be filed to the time of payment shall be added to and paid with any tax that might be due on returns so extended."

Sec. 3. G.S. 105-16, as the same appears in 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting in their entirety lines 4 and 5 thereof to read as follows:

"intestate, grantor, donor or vendor, such tax shall bear interest at the rate established pursuant to G.S. 105-241.1(i), to be computed from the expiration of nine".

Sec. 4. G.S. 105-113.35, as the same appears in 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting in its entirety the third line thereof to read as follows:

"the rate established pursuant to G.S. 105-241.1(i) from the date due until".

Sec. 5. G.S. 105-113.86(k), as the same appears in 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting in its entirety line 5 thereof to read as follows:

"rate established pursuant to G.S. 105-241.1(i)".

Sec. 6. G.S. 105-129(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting in their entirety lines 6 and 7 thereof to read as follows:

"filing any return under this Article or schedule, provided interest at the rate established pursuant to G.S. 105-241.1(i) is paid upon the total".

Sec. 7. G.S. 105-130.19, as the same appears in 1972 Replacement Volume 2D of the General Statutes, is hereby amended by:

(a) deleting the words and figures, "of six percent (6%) per annum from the date the return was originally due to be filed.", appearing in lines 5 and 6 of subsection (b), and substituting in lieu thereof the words and figures, "established pursuant to G.S. 105-241.1(i).";

(b) deleting the words and figures, "of six percent (6%) per annum from the date the return was originally due to be filed.", appearing in lines 14 and 15 of subsection (b) thereof, and substituting therefor the words and figures, "established pursuant to G.S. 105-241.1(i).";

(c) deleting the words and figures, "of six percent (6%) per annum from the date the return was originally due to be filed until paid.", appearing in lines 3 and 4 of subsection (c), and substituting in lieu thereof the words and figures, "established pursuant to G.S. 105-241.1(i)."

Sec. 8. G.S. 105-163.15(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting in their entirety lines 4 and 5 beginning with the caption to read as follows:

"imposed under Article 4 for the taxable year an amount determined at the rate established pursuant to G.S. 105-241.1(i) upon the amount of the underpayment as".

Sec. 9. G.S. 105-163.30(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting in their entirety lines 4 and 5 thereof to read as follows:

"the taxable year an amount determined at the rate established pursuant to G.S. 105-241.1(i) upon the amount of the underpayment (determined under subsection".

Sec. 10. G.S. 105-164.19 is amended by rewriting the last sentence thereof, to read as follows:

"If the time for filing a return be extended, interest at the rate established pursuant to G.S. 105-241.1(i) from the time the return was due to be filed to the date of payment shall be added and paid."

Sec. 11. From and after the effective date of this act, interest upon assessments and upon additional taxes shall be computed at the rate established by G.S. 105-241.1(i) and shall be computed without regard to any former rate of interest which might have been established by G.S. 105-241.1 for the taxable period for which said assessment was made, or for the period within which said taxes were due to be paid.

Sec. 12. This act shall become effective on January 1, 1978, except that the provisions of Section 1 authorizing the Secretary of Revenue to establish adjusted rates of interest shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 786 CHAPTER 1115

AN ACT TO EXEMPT AUCTION SALES CONDUCTED BY OR ON BEHALF OF CIVIC CLUBS FROM THE COVERAGE OF GENERAL STATUTES CHAPTER 85B.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85B-2 is amended by inserting a new subsection 10 to read as follows:

"(10) Sales conducted by and on behalf of a civic club, not exceeding one sale per year;"

and renumbering the following subsections.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1307 CHAPTER 1116

AN ACT RELATING TO LEARNED TREATISES AND THE HEARSAY RULE.

The General Assembly of North Carolina enacts:

Section 1. In all actions in the superior court to the extent called to the attention of an expert witness upon cross-examination or relied upon by him in direct examination, the hearsay rule shall not exclude statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice, even though the declarant is available as a witness. If admitted, the statements may be read into evidence but may not be received as exhibits unless agreed to by counsel for the parties.

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1373 CHAPTER 1117

AN ACT TO REQUIRE ANY COUNSEL OF RECORD IN A CRIMINAL CASE WHO HAS MADE A GENERAL ENTRY IN THE CASE TO CONTINUE TO SERVE UNTIL RELEASED BY THE COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-143 is rewritten to read as follows:

"§ 15A-143. *Attorney making general entry obligated to represent defendant at all subsequent stages.*—An attorney who enters a criminal proceeding without limiting the extent of his representation pursuant to G.S. 15A-141(3) undertakes to represent the defendant for whom the entry is made at all subsequent stages of the case until entry of final judgment, at the trial stage. An attorney who appears for a limited purpose under the provisions of G.S. 15A-141(3) undertakes to represent the defendant only for that purpose and is deemed to have withdrawn from the proceedings, without the need for permission of the court, when that purpose is fulfilled."

Sec. 2. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1394 CHAPTER 1118

AN ACT TO AMEND G.S. 8-53 TO ALLOW A DECEASED'S NEXT OF KIN, WHEN THE ESTATE IS UNADMINISTERED, TO AUTHORIZE THE RELEASE OF CONFIDENTIAL INFORMATION CONTAINED IN DECEASED'S MEDICAL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-53 is hereby rewritten to read as follows:

"§ 8-53. *Communications between physician and patient.*—No person, duly authorized to practice physic or surgery, shall be required to disclose any information which he may have acquired in attending a patient in a professional character, and which information was necessary to enable him to prescribe for such patient as a physician, or to do any act for him as a surgeon. Confidential information obtained in medical records shall be furnished only on the authorization of the patient, or if deceased, the executor, administrator, or, in the case of unadministered estates, the next of kin; provided, that the court, either at the trial or prior thereto, or the Industrial Commission pursuant to law may compel such disclosure, if in his opinion the same is necessary to a proper administration of justice."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 125 CHAPTER 1119

AN ACT TO AMEND G.S. 7A-41 TO AUTHORIZE ADDITIONAL RESIDENT SUPERIOR COURT JUDGES AND ASSISTANT DISTRICT ATTORNEYS IN VARIOUS JUDICIAL DISTRICTS, TO MAKE APPROPRIATIONS THEREFOR AND TO APPROPRIATE FUNDS FOR DEVELOPMENT OF STANDARD JURY CHARGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41 is amended to authorize an additional resident superior court judge in the third, fourth, eighth, tenth, twelfth, fourteenth, nineteenth, twentieth, twenty-second, and twenty-sixth judicial districts, so that the quota of resident superior court judges for these districts in the table in G.S. 7A-41 will read as follows:

Judicial District	No. of Resident Judges
3	2
4	2
8	2
10	4
12	3
14	3
19	3
20	2
22	2
26	5

Sec. 2. The additional judges authorized in Section 1 of this act shall be appointed by the Governor and shall take office on July 1, 1977. The successors of the Governor's appointees shall be chosen in the manner prescribed by law for other resident superior court judges in the general election of 1978 to serve for the unexpired portion of the term of eight years which began as of January 1, 1977, and their successors shall be chosen thereafter in the manner and serve for terms as prescribed for other resident superior court judges.

Sec. 3. G.S. 7A-41 is amended, effective as of July 1, 1977, to increase the number of assistant district attorneys for the third, fourth, fifth, eighth, tenth, twelfth, thirteenth, fourteenth, sixteenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth and twenty-seventh-A, judicial districts, so that the quota of assistant district attorneys for these districts in the table in G.S. 7A-41 will read as follows:

Judicial District	No. of Full-Time Assistant District Attorneys
3	7
4	7
5	6
8	6
10	12
12	9
13	3
14	6
16	5
18	10
19	7
20	7
21	8
22	5
23	2
24	2
25	6
26	15
27	5 for Prosecutorial District 27A and 3 for Prosecutorial District 27B

Sec. 4. G.S. 7A-41 is amended by changing the figure designating the number of resident judges in the fifth judicial district from "1" to "2". This amendment does not authorize an additional resident superior court judge for the fifth judicial district. It changes the table so as to reflect the additional judge provided by Session Laws 1969, Chapter 1171.

Sec. 5. There is hereby appropriated from the General Fund to the Judicial Department the sum of ninety-seven thousand forty-six dollars ($97,046) for each fiscal year of the 1977-1979 biennium to provide an assistant district attorney for the following judicial districts: five, twenty-one, twenty-five and twenty-seven-A.

Sec. 6. There is appropriated from the General Fund to the Administrative Office of the Courts twenty-two thousand dollars ($22,000)

during fiscal year 1977-78 and twenty-two thousand dollars ($22,000) during fiscal year 1978-79 to provide for drafting, staffing, and other reasonable expenses of developing updated standard jury charges covering various legal situations which arise in court (pattern jury instructions).

Sec. 7. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 330 **CHAPTER 1120**

AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES TO ALLOW DISTRICT COURT JUDGES RETIREMENT CREDIT FOR TIME SERVED AS JUDGES OF INFERIOR COURTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 135 of the General Statutes is hereby amended by adding a new section following Section 135-56 to be designated Section 135-56.1 and to read as follows:

"§ 135-56.1. *Creditable service for district court judges.*—Creditable service for a judge of a District Court of the General Court of Justice shall include, in addition to time served as a district court judge or district attorney (prosecuting attorney or solicitor) or both, time served as a judge of any lawfully constituted court of this State inferior to the superior court, excluding time served as a justice of the peace, as a magistrate, or as a mayor's court judge; provided that such person was a contributing member of a participating unit of the North Carolina Local Governmental Employee's Retirement System prior to becoming a district court judge; and provided further that such member's contributions were transferred to the State Retirement System at the time he became a district court judge and such contributions have not been withdrawn."

Sec. 2. G.S. 135-58(3) is hereby amended to read as follows:

"In addition to time served as a District Court Judge of the General Court of Justice, creditable service shall also include prior creditable service as provided in G.S. 135-56."

Sec. 3. There is appropriated from the General Fund to the Uniform Judicial Retirement System, Department of State Treasurer, the sum of thirty-four thousand dollars ($34,000) for fiscal year 1977-1978 and the sum of thirty-four thousand dollars ($34,000) for fiscal year 1978-1979 to fund the creditable service for district court judges allowed by this act.

Sec. 4. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 434 **CHAPTER 1121**

AN ACT TO PROVIDE FOR MANDATORY PERIODIC JUDICIAL REVIEW IN ALL CASES WHERE THE CUSTODY OF A CHILD IS REMOVED FROM A PARENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-286(2), as the same appears in Volume 1B of the 1975 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by inserting at the end thereof the following paragraph:

"In any case where custody is removed from a parent, the court shall after 10 days notice to the parent order and conduct periodic reviews, not less frequently than semiannually during the first year after such removal and annually thereafter, to determine if the needs of the child are being met and if the placement is in the child's best interests. The court may order the Department of Social Services, the juvenile court counselor, or any other public or private community agency to timely present the review to the court and assist in making such determination. The court shall after findings of fact enter an order (i) continuing the placement under review, (ii) providing for a different placement, or (iii) making such other provision for the child as is deemed to be in the child's best interests. If at any time custody is restored to a parent, the court shall be relieved of the duty to conduct periodic judicial reviews of the placement."

Sec. 2. This act shall become effective on January 1, 1978, and shall only apply to custody orders entered on or after January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 563 **CHAPTER 1122**

AN ACT TO RE-CREATE A STATE FARM OPERATIONS COMMISSION WITHIN THE DEPARTMENT OF AGRICULTURE.

Whereas, certain farm lands and forest lands were transferred to the North Carolina Department of Agriculture under the provisions of Chapter 1457, 1973 Session Laws (2nd Session, 1974); and

Whereas, it is in the best interest of the State to retain such lands for such possible future use of State government as may later be determined to be in the best interest of the State; and

Whereas, it is the intent of this act to continue to authorize and direct the use of such lands by the North Carolina Department of Agriculture for agricultural purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The re-creation of State Farm Operations Commission. There is hereby re-created a State Farm Operations Commission (hereinafter "commission") within the Department of Agriculture. The commission shall consist of a member of the Board of Agriculture, appointed by the Commissioner of Agriculture; the Dean, School of Agriculture and Life Sciences, North Carolina State University; the Dean, School of Forest Resources, North Carolina State University; the Secretary of Human Resources; the Secretary of Correction; the Chairman of the Committee on Agriculture of the House of Representatives; and the Chairman of the

Committee on Agriculture of the Senate; or their designees. Each member of the commission shall be deemed serving on the commission in an ex officio capacity and shall continue to serve until his successor has been duly qualified.

Sec. 2. Powers and duties of the commission. The commission is authorized, empowered and directed to develop policies for the use and operation of the farm units listed below:

Broughton Farm Unit (formerly Broughton Hospital Farm), Morganton
Caswell Farm Unit (formerly Caswell Center Farm), Kinston
Cherry Farm Unit (formerly Cherry Hospital Farm), Goldsboro
Dix Farm Unit (formerly Dorothea Dix Hospital Farm), Raleigh
Umstead Farm Unit (formerly John Umstead Hospital Farm), Butner
Fountain Farm Unit (formerly Richard T. Fountain School Farm), Rocky Mount
Jackson Farm Unit (formerly Stonewall Jackson School Farm), Concord
Dobbs Farm Unit (formerly Dobbs School for Girls Farm), Kinston
Old Health Farm Unit (formerly Laboratory Farm, Laboratory Section, Human Resources), between Raleigh and Cary
Samarkand Farm Unit (formerly Samarkand Manor Farm), Eagle Springs
Cameron Morrison Farm Unit (formerly Cameron Morrison School Farm), Hoffman
McCain Farm Unit (formerly McCain Sanatorium Farm), McCain
Governor Morehead Farm Unit (formerly Governor Morehead School Farm), Raleigh

The commission shall be responsible for determining policies for operating the lands and using the resources hereby assigned to it in such a manner that the public interest is maximized. Farm production shall be conducted so as to meet the institutional needs of the State. In the interest of efficiency of operation and in times of abundance beyond anticipation, the commission is authorized to sell farm and forest products not required for institutional needs.

The commission shall develop policies to operate, rent, or lease the farms hereinabove named in a manner provided by law, and subject to the provisions of Chapter 146 of the General Statutes.

Sec. 3. In order to effect the intent of this act, the Council of State may transfer to the Department of Agriculture any farm or timberland now operated by any State department or agency in the event the department or agency ceases to use the farm or timberland for its intended statutory purpose. For the purposes of this act such lands are defined as farms, lands, and buildings that can be used for agriculture in its broadest sense, including forestry.

Upon such transfer the commission shall assume the responsibility for the operation and general utilization of such lands.

Sec. 4. Powers and duties of Commissioner of Agriculture. The Commissioner of Agriculture is authorized and directed to implement and administer the policies and programs adopted by the commission.

Sec. 5. Any State department may apply to the Department of Administration for approval of any other State use or disposition of any land under the control of the commission. The commission shall present its recommendations regarding any such application. The Council of State may approve any other State use or disposition of such land as, in its judgment, may better serve the interests of the State of North Carolina.

Sec. 6. Any net proceeds realized by reason of allocation or sale of any lands under the control of the commission shall be deposited with the State Treasurer in the General Fund and shall be expended only in accordance with appropriations by the General Assembly.

Sec. 7. Budgetary organization. Funds appropriated from the General Fund for the operation of the farms and timberlands shall be expended in accordance with the Executive Budget Act. The Department of Agriculture shall provide all budgetary, staffing and support services.

Sec. 8. Use of products. The Department of Human Resources shall have priority on those food products and services produced by the State farm operations program which are deemed essential to their institutional needs. The value of such food products and services provided by the State farm operations program shall be based on mutually negotiated agreements between the commission and the respective agencies. To the extent food products are available from the State farm operations program, the Department of Human Resources and other State agencies shall use such products, unless provided by other State-owned farm operations. In event of a dispute between departments, the Governor and Advisory Budget Commission shall determine the forms of such agreement and method of payment, either by cash or book transfer.

Sec. 9. Expenses of commission members. Expenses incurred by members of the commission in the performance of those duties herein imposed shall be reimbursed, subject to statutory limitations, from the State farm operations program budget.

Sec. 10. Chapter 1457 of the 1973 Session Laws (2nd Session 1974), except Section 7 thereof, is hereby repealed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 651 CHAPTER 1123

AN ACT TO PROVIDE FOR REGULATION OF BICYCLES.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 20 of the General Statutes of North Carolina is hereby amended by adding a new Part to be designated Part 10A and to read as follows:

"PART 10A.

"Operation of Bicycles.

"§ 20-171.1. *Definitions.*—As used in this Part, except where the context clearly requires otherwise, the words and expressions defined in this section shall be held to have the meanings here given to them:

Bicycle. A nonmotorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

"§ 20-171.2. *Bicycle racing.*—(a) Bicycle racing on the highways is prohibited except as authorized in this section.

(b) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by State or local authorities on any highway under their respective jurisdictions. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent

unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(c) By agreement with the approving authority, participants in an approved bicycle highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users."

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 910

CHAPTER 1124

AN ACT AUTHORIZING THE STATE TREASURER TO ESTABLISH A POOL ACCOUNT FOR LOCAL GOVERNMENTS TO FUND UNEMPLOYMENT COMPENSATION LIABILITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 147 of the General Statutes is amended by adding a new G.S. 147-87 reading as follows:

"§ 147-87. *Pool account for local government unemployment compensation.*— (a) The State Treasurer is authorized to establish a pool account, in accordance with rules and regulations of the Employment Security Commission, in cooperation with any one or more units of local government, for the purpose of reimbursing the Employment Security Commission for unemployment benefits paid by the commission and chargeable to each local unit of government participating in the pool account. In the pool account established pursuant to this section, the funds contributed by a unit of local government shall remain the funds of the particular unit, and interest or other investment income earned by the pool account shall be prorated and credited to the various contributing local units on the basis of the amounts thereof contributed, figured according to an average periodic balance or some other sound accounting principle.

(b) The State Treasurer shall pay to the Employment Security Commission, within 25 days from receipt of a list thereof, all unemployment benefits charged by the commission to each unit of local government participating in the pool account from the funds in the pool account belonging to each such unit, to the extent that said funds are sufficient to do so.

(c) Notwithstanding the participation by a unit of local government in the pool account authorized by this section, such unit shall remain liable to the Employment Security Commission for any benefits duly charged by the commission to the unit which are not paid by the State Treasurer from funds in the pool account belonging to the unit. Notwithstanding its participation in the pool account, each unit of local government shall continue to maintain an individual account with the Employment Security Commission.

(d) The Advisory Budget Commission shall be authorized to transfer from the interest earned on the pool account, to the State Treasurer's Departmental Budget, such funds as may be necessary to defray the Treasurer's cost of administering the pool account."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 912 **CHAPTER 1125**

AN ACT TO DELETE THE REQUIREMENT THAT A LICENSED PILOT WHO IS OTHERWISE QUALIFIED MUST SERVE A TWO-YEAR APPRENTICESHIP BEFORE BEING LICENSED AS AN AERIAL PESTICIDE APPLICATOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-453(a) as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is hereby rewritten to read as follows:

"(a) An applicant for a license must present satisfactory evidence to the board concerning his qualifications for a pesticide applicator license. The contractor and each pilot involved in aerial application of pesticides shall be licensed. Those qualifications, in the case of a pilot, shall include at least 100 hours flying experience as a pilot in the field of aerial pesticide application. A pilot lacking 100 hours experience as a pilot in the field of aerial pesticide application may be licensed as an apprentice aerial pesticide applicator pilot provided that all aerial applications of pesticide by such licensed aerial pesticide applicator apprentice is conducted under the direction and supervision of a licensed pesticide applicator pilot."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 775 **CHAPTER 1126**

AN ACT TO AMEND ARTICLE 5A OF CHAPTER 122 OF THE GENERAL STATUTES TO PROVIDE LEGAL REPRESENTATION FOR THE INTERESTS OF THE PETITIONER IN INVOLUNTARY COMMITMENT PROCEEDINGS BY A PART-TIME PRIVATE ATTORNEY APPOINTED BY THE SENIOR RESIDENT SUPERIOR COURT JUDGE.

Whereas, special counsel for the indigent respondent is provided by law in involuntary commitment proceedings; and

Whereas, neither the district attorney nor court appointed counsel is required to represent the interests of the petitioner and the community at large; and

Whereas, without representation for the petitioner and the community at large in involuntary commitment proceedings the hearings will not be balanced or truly adversarial in nature; and

Whereas, there is a conflict of interest in the district attorney's office representing petitioners in involuntary commitment proceedings when the respondent has criminal charges; and

Whereas, fundamental principles of traditional justice are violated without representation for both sides in the involuntary commitment issue; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.7(b) as the same appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes is hereby rewritten to read as follows:

"(b) The senior regular resident superior court judge of a judicial district in which a regional psychiatric facility for the care and treatment of the mentally ill and inebriate is located shall appoint an attorney licensed to practice law in North Carolina as part-time special advocate to represent the petitioner's interest at all hearings, re-hearings, and supplemental hearings, held pursuant to this Article. Such part-time special advocate will serve at the pleasure of the appointing judge, may engage in the private practice of law, and shall receive annual compensation as fixed by the General Assembly. The special advocate shall be considered an independent contractor and not an employee of the State; accordingly, the State shall not withhold any taxes or social security from the compensation paid to such special advocate."

Sec. 2. There is hereby appropriated from the General Fund of the State of North Carolina to the Judicial Department, in addition to all other appropriations, the sum of forty thousand dollars ($40,000) for the fiscal year 1977-78 and for the fiscal year 1978-79 the sum of forty thousand dollars ($40,000), to pay an annual salary of ten thousand dollars ($10,000) to each of the part-time special advocates.

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 996 CHAPTER 1127

AN ACT TO AMEND G.S. 108-24(3) TO INCLUDE WITHIN THE DEFINITION OF "DEPENDENT CHILD" PERSONS UNDER 21 YEARS OF AGE AS PROVIDED BY TITLES IV-A AND XIX OF THE SOCIAL SECURITY ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-24(3) is hereby amended by replacing the period at the end thereof with a semicolon and adding the following language:

"it shall also include a person under 21 years of age as provided by Titles IV-A and XIX of the Social Security Act."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1435 CHAPTER 1128

AN ACT TO MAKE VETERANS DAY A HOLIDAY FOR SCHOOL CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-36, as the same appears in the 1975 Replacement Volume 3A of the General Statutes, is hereby amended by adding a new subsection (d) to read as follows:

"(d) Veterans Day. Veterans Day shall be a holiday for all children enrolled in the public schools, but shall be a work day for all school employees, unless designated as a holiday by the local board of education pursuant to G.S. 115-157."

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. B. 1531 CHAPTER 1129

AN ACT TO ESTABLISH AN EIGHT-HOUR WORK DAY FOR SUPERVISORS OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-35(c), as the same appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by rewriting the third sentence thereof to read as follows:

"For the purposes of this section not less nor more than eight hours shall constitute one day."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 224 CHAPTER 1130

AN ACT TO DIVIDE THE FIFTEENTH AND TWENTY-SEVENTH JUDICIAL DISTRICTS, AND TO CREATE ADDITIONAL DISTRICT ATTORNEYS, SUPERIOR COURT JUDGE, AND DISTRICT COURT JUDGES AS REQUIRED THEREBY AND TO MAKE APPROPRIATIONS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective July 15, 1977, by deleting the reference to the fifteenth judicial district therein, and inserting in lieu thereof the following:

"Judicial District	Counties	No. of Resident Judges	No. of full-time Asst. District Attorneys
15A	Alamance	1	3
15B	Orange		
	Chatham	1	2"

Sec. 2. G.S. 7A-41, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective January 1, 1979, by deleting the reference to the twenty-seventh judicial district therein, and inserting in lieu thereof the following:

"Judicial District	Counties	No. of Resident Judges	No. of full-time Asst. District Attorneys
27A	Gaston	2	5
27B	Cleveland		
	Lincoln	1	3"

Sec. 3. G.S. 7A-60(b), as set forth in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by adding the following paragraphs at the end thereof:

"Effective July 15, 1977, the fifteenth prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 15A and 15B. District 15A shall consist of Alamance County, and District 15B shall consist of Orange and Chatham Counties. The current district attorney of the fifteenth prosecutorial district shall become the district attorney for Prosecutorial District 15A, and the Governor shall appoint a district attorney for Prosecutorial District 15B. The appointee shall serve until January 1, 1979, and his successor shall be chosen in the general election of November 1978, to serve a four-year term beginning January 1, 1979."

Sec. 4. G.S. 7A-133, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective July 15, 1977, by deleting the references to the fifteenth district under the columns headed "District", "Judges", and "County", and inserting in lieu thereof:

"District	Judges	County
15A	3	Alamance
15B	2	Orange
		Chatham"

The additional district court judge authorized by this act for district fifteen-A shall be appointed by the Governor to serve until the first Monday in December 1980. The appointee's successor shall be chosen in the general election of November 1980 to serve a four-year term beginning the first Monday in December 1980.

Sec. 5. G.S. 7A-133, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective January 1, 1979, by deleting the references to the twenty-seventh district under the columns headed "District", "Judges", and "County", and inserting in lieu thereof:

"District	Judges	County
27A	4	Gaston
27B	2	Cleveland
		Lincoln"

The additional district court judge authorized by this act for district 27B shall be appointed by the Governor to serve until the first Monday in December 1980. The appointee's successor shall be chosen in the general election of November 1980, to serve a four-year term beginning the first Monday in December 1980.

Sec. 6. G.S. 7A-465, as set forth in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by adding the following at the end of the third paragraph:

"Effective January 1, 1979, the twenty-seventh judicial district is divided into judicial districts 27A and 27B. On that date the current public defender of the twenty-seventh district shall become the public defender for district 27A."

Sec. 7. G.S. 7A-466, as set forth in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended in line 2 by deleting "twenty-sixth and twenty-seventh" and inserting in lieu thereof "twenty-sixth and twenty-seventh-A".

Sec. 8. There is hereby appropriated from the General Fund to the Judicial Department the sum of forty-one thousand six hundred ninety-five dollars ($41,695) for the 1977-1978 fiscal year and the sum of ninety-seven thousand five hundred seventy-seven dollars ($97,577) to provide additional

judicial employees in judicial districts fifteen-A, fifteen-B, twenty-seven-A and twenty-seven-B.

Sec. 9. This act shall become effective July 15, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. B. 832 CHAPTER 1131

AN ACT PROVIDING FOR MANDATORY PRISON CONFINEMENT FOR ANY PERSON CONVICTED OF MORE THAN ONE FELONY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is hereby amended by adding a new section immediately after G.S. 14-2 to be designated G.S. 14-2.1 and to read as follows:

"§ 14-2.1. *Punishment of felonies; second or subsequent offenses.*— Notwithstanding the provisions of G.S. 15-197, or any other provisions of law, any person who has been previously convicted of a felony where a deadly weapon was used in the commission of the crime in the courts of this State, upon conviction of a second felony where a deadly weapon was used in the commission of the crime within seven years of the date of the previous felony conviction, provided that the previous felony did not occur within 10 days of the second felony, shall be sentenced to imprisonment for a minimum period of seven years and shall, in every instance, serve the first seven calendar years of his sentence without benefit of parole, probation, suspended sentence, or any other judicial or administrative remedy for release from incarceration. Such term will be computed allowing credit for good behavior, credit for time served while incarcerated awaiting trial, and such other provisions as the Secretary of Correction might make pursuant to G.S. 148-11. Upon completion of service of such term, the prisoner will be eligible to have his case considered for parole if the requisites of G.S. 148-58 regarding time served have been satisfied. The power of the Governor to grant commutations, pardons, and reprieves, and the power of the courts to grant appropriate relief under Article 22 of the General Statutes Chapter 15 will not be affected by the provisions of this section.

For the purpose of this section, the record or records of the prior felony conviction shall be admissible in evidence after conviction and before sentencing, but only for the purpose of proving that said person has been convicted of a previous felony. A judgment of a conviction or plea of guilty to such felony offense certified to a superior court of this State from the custodian of records of any other court of this State under the same name as that by which the defendant is charged shall be prima facie evidence that the identity of such person is the same as the defendant so charged and shall be prima facie evidence of the facts so certified.

For the purpose of this section, felonies committed before a person attains the age of 21 years shall not constitute a previous felony conviction.

Pleas of guilty to or convictions of felony offenses prior to September 1, 1977, shall not be felony offenses within the meaning of this Article. Any felony offense to which a pardon has been extended shall not for the purpose of this Article constitute a felony. The burden of proving such pardon shall rest with the defendant and the State shall not be required to disprove a pardon."

Sec. 2. This act shall become effective September 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

RESOLUTIONS

S. R. 1 RESOLUTION 1

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 8:00 P.M., MONDAY, JANUARY 17, 1977.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. A committee of two on the part of the Senate and three on the part of the House of Representatives shall be appointed by the presiding officers of the respective houses. The committee shall notify His Excellency, James B. Hunt, Jr., Governor of North Carolina, that the General Assembly is organized and is now ready to proceed with public business, and the committee shall invite him to deliver an address to a Joint Session of the General Assembly at 8:00 P.M., Monday, January 17, 1977.

Sec. 2. The full text of the Governor's message shall be entered in the Appendix of the House and Senate Journals of the 1977 Session of the General Assembly.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of January, 1977.

S. R. 35 RESOLUTION 2

A JOINT RESOLUTION INVITING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 8:00 P.M., MONDAY, JANUARY 31, 1977.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. A committee of two on the part of the Senate and three on the part of the House of Representatives shall be appointed by the presiding officers of the respective houses. The committee shall invite His Excellency, James B. Hunt, Jr., to deliver an address to a Joint Session of the General Assembly at 8:00 P.M., Monday, January 31, 1977.

Sec. 2. The full text of the Governor's message shall be entered in the Appendix of the House and Senate Journals of the 1977 Session of the General Assembly.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of January, 1977.

H. R. 115 **RESOLUTION 3**

A JOINT RESOLUTION URGING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO TAKE STEPS NECESSARY TO PROVIDE ADDITIONAL SUPPLIES OF NATURAL GAS TO THE STATE OF NORTH CAROLINA.

Whereas, the natural gas shortage that has existed for the last few years has led to a substantial curtailment of natural gas supplies; and

Whereas, North Carolina is served by only one interstate natural gas transmission company, the Transcontinental Gas Pipeline Corporation (Transco); and

Whereas, Transco is currently the most severely curtailed natural gas transmission company in the United States; and

Whereas, many other natural gas transmission companies have been only slightly curtailed, if at all; and

Whereas, North Carolina has been curtailed more than any other state in the United States; and

Whereas, the citizens and business establishments in the State of North Carolina have made an extraordinary effort to reduce their usage of natural gas or to substitute alternate fuel sources for natural gas, whenever possible; and

Whereas, it is impossible for some types of industry to substitute alternate fuel sources for natural gas; and

Whereas, the abnormally cold weather this winter has brought the shortage problem to a crisis level; and

Whereas, the weather forecast for the remainder of the winter season does not promise any relief; and

Whereas, the substitution of alternate fuel supplies has created shortages in some of the alternate fuel sources; and

Whereas, some industries in North Carolina have already closed their plants and have begun laying off employees; and

Whereas, additional plant closings resulting from the natural gas shortage could ultimately lead to the loss of jobs for more than 36,000 workers in North Carolina; and

Whereas, any future curtailments could lead to the shutdown of additional industrial plants, could force the closing of commercial establishments and schools, and could lead to the curtailment of natural gas to hospitals and private residences;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly urges the United States Congress to take immediate steps to give the President of the United States the emergency authority to transfer natural gas supplies to areas, such as North Carolina, which have the most severe shortages of natural gas.

Sec. 2. That the North Carolina General Assembly requests the President of the United States to use this emergency authority to allocate enough additional natural gas to North Carolina to have a substantial impact on the current severe shortage of natural gas in the State.

Sec. 3. That a copy of this resolution be transmitted immediately to the President of the United States and to the North Carolina delegation to the United States Congress.

Sec. 4. That a copy of this resolution be transmitted to the Federal Power Commission, Washington, D. C.

Sec. 5. That this resolution be effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of January, 1977.

S. R. 173 **RESOLUTION 4**

A JOINT RESOLUTION COMMEMORATING THE NINETY-NINTH BIRTHDAY OF FRED G. GILLIKIN, CHIEF WARRANT OFFICER OF THE COAST GUARD.

Whereas, Fred G. Gillikin, the oldest living member of the Coast Guard, will celebrate his ninety-ninth birthday on March 4, 1977; and

Whereas, Fred G. Gillikin enlisted on January 10, 1900, in what was then called the Life Saving Service and retired in 1941, with the rank of Chief Warrant Officer and now considers himself on "inactive duty"; and

Whereas, Fred G. Gillikin was in the first rescue by the United States Coast Guard in 1915, at Cape Lookout Station, North Carolina, where the ship "Sylvia Hall" was involved; and

Whereas, Fred G. Gillikin not only has served his country with 41 years of dedicated service in the Coast Guard, but has also been engaged in an active career in his community as a Mason for over 60 years and as a member of the Methodist Church; and

Whereas, Fred G. Gillikin is the oldest retired Coast Guardsman in the world and the oldest retired United States Coast Guardsman;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina does express its appreciation to Fred G. Gillikin as an outstanding public servant and a loyal citizen, and does congratulate him on his ninety-ninth birthday.

Sec. 2. That a certified copy of this resolution be sent to Mr. Fred G. Gillikin at his home address by the Secretary of State.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1977.

H. R. 245 **RESOLUTION 5**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM B. RODMAN, JR., A DISTINGUISHED NORTH CAROLINIAN.

Whereas, William B. Rodman, Jr., lifetime resident of North Carolina, died at the age of 87 on August 3, 1976, after a long and dedicated life of public service in which he served his local community and the State of North Carolina in all three branches of government: legislative, executive, and judicial, it is fitting that the General Assembly of North Carolina should recognize with appreciation some of his many contributions to the State of North Carolina; and

Whereas, William B. Rodman, Jr. was born in Beaufort County on July 2, 1889, and attended Horner Military School; graduated from Oak Ridge

Institute; graduated from The University of North Carolina and later studied law there; and

Whereas, William B. Rodman, Jr. was admitted to the North Carolina Bar in 1911 and engaged in the practice of law from 1911 to 1917 at which time he entered the United States Navy as a lieutenant and was on active duty during World War 1; and

Whereas, William B. Rodman, Jr. served as Mayor of Washington, North Carolina from 1919 to 1921; and

Whereas, William B. Rodman, Jr. served as a State Senator to the North Carolina General Assembly from 1936-1939; and

Whereas, William B. Rodman, Jr. was chairman of the Beaufort County Draft Board in 1941, vice president of the North Carolina State Bar, 1940-1941, and president of the North Carolina State Bar, 1941-1942; and

Whereas, William B. Rodman, Jr. served in the North Carolina General Assembly as a member of the House of Representatives during the 1951, 1953 and 1955 Sessions; and

Whereas, William B. Rodman, Jr. was appointed Attorney General by Governor Luther Hodges in 1955 and served in that capacity until he was appointed associate justice of the North Carolina Supreme Court in 1956 where he served through August, 1965; and

Whereas, William B. Rodman, Jr. served as a member of the North Carolina Medical Care Commission and the North Carolina Advisory Budget Commission as well as serving locally on bank and savings and loan boards; and

Whereas, William B. Rodman, Jr. was a most talented and quick-witted individual who loved storytelling and history, but who loved people most of all; and

Whereas, William B. Rodman, Jr. expressed many times his belief that all material and worldly things could not compare with the joy and happiness he received from relationships with friends and family, who were, for him, what made life meaningful and happy; and

Whereas, Beaufort County and the State of North Carolina will greatly miss this active and dedicated man;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly does hereby acknowledge and express its appreciation and gratitude for the public service rendered by William B. Rodman, Jr.

Sec. 2. That in the death of William B. Rodman, Jr. the State of North Carolina has lost one of its most able and distinguished citizens.

Sec. 3. That the General Assembly extends its deep and sincere sympathy to the family of William B. Rodman, Jr.

Sec. 4. That a copy of this resolution shall be sent to the family of William B. Rodman, Jr.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1977.

H. R. 253

RESOLUTION 6

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HOMER BROWN TOLBERT, SR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Homer Brown Tolbert, son of Herbert B. and Mary Tolbert, was born on February 25, 1916, in Amity, North Carolina, and died on September 2, 1976, after a lifetime of service to his community, his county and his State; and

Whereas, Homer Brown Tolbert, graduated from Troutman High School in 1933, attended Wake Forest University and was married to Nellie R. Tucker on December 19, 1936; and

Whereas, Homer Brown Tolbert, worked faithfully for his county and the State, having served as a member of the House of Representatives, in the 1967, 1969 and 1973 General Assemblies, representing the Thirty-Ninth District; and

Whereas, Homer Brown Tolbert was a devoted member of the Cleveland Baptist Church, where he served as Chairman of the Board of Deacons from 1962 to 1964; was Church Clerk from 1956 to 1968; was a Sunday School Teacher from 1953 to 1969; was Church Treasurer from 1952 to 1956; and was Sunday School Superintendent; and

Whereas, Homer Brown Tolbert worked unselfishly for the betterment of his community and area having served as first Vice-President of the Cleveland Lions Club; President of the Wake Forest Club of Iredell County; member of the Board of Directors of North Carolina Cotton Promotion; Chairman of the Republican Party of Baringer Township; member of the Farm Bureau; and member of the State Republican Executive Committee; and a member of the North Carolina Agricultural Stabilization Committee; and

Whereas, Homer Brown Tolbert is survived by his wife, Nellie Tolbert, a daughter, Mrs. Carolyn T. Jordan, and two sons, Homer B. Tolbert, Jr., and Carl P. Tolbert;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes and expresses its appreciation and gratitude for the many years of dedicated public service rendered by Homer Brown Tolbert.

Sec. 2. The General Assembly of North Carolina extends its deep and sincere sympathy to the family of Homer Brown Tolbert.

Sec. 3. A copy of this resolution shall be sent to the family of Homer Brown Tolbert.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1977.

S. R. 8 **RESOLUTION 7**

A JOINT RESOLUTION HONORING PISGAH HIGH SCHOOL, CONSECUTIVE WINNER OF THE NORTH CAROLINA 3-A FOOTBALL CHAMPIONSHIP, FRANKLIN HIGH SCHOOL, WINNER OF THE NORTH CAROLINA 2-A FOOTBALL CHAMPIONSHIP, AND ROBBINSVILLE HIGH SCHOOL, WINNER OF THE NORTH CAROLINA 1-A FOOTBALL CHAMPIONSHIP.

Whereas, the football teams of Pisgah, Franklin and Robbinsville brought honor to their towns and schools by being winners of the North Carolina 3-A, 2-A and 1-A Football Championships, respectively; and

Whereas, the Pisgah, Franklin and Robbinsville teams did display great togetherness and team play to win these championships; and

Whereas, each member of the teams did perform his best in the true tradition of good sportsmanship; and

Whereas, the members of the Pisgah, Franklin and Robbinsville teams did receive inspiration and instruction from their honorable coaches; and

Whereas, each football team has magnificently played an outstanding season under the leadership of their captains;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina hereby congratulates the Pisgah, Franklin and Robbinsville Football Teams, including the team members and coaching staffs, for their accomplishments and achievements during the 1976 football season; namely, for being the winners of the 3-A, 2-A and 1-A Football Championships, respectively, with Pisgah winning this award for the second consecutive year.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1977.

S. R. 180 **RESOLUTION 8**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JUDGE W. H. S. BURGWYN.

Whereas, Judge W. H. S. Burgwyn died on January 24, 1977; and

Whereas, he was born in the town of Jackson, Northampton County, North Carolina, on January 22, 1886, and received his education at John Graham School, Warrenton, North Carolina; Episcopal High School, Alexandria, Virginia; Georgetown College, Washington, D. C.; and The University of North Carolina Law School; and

Whereas, Judge Burgwyn was in school at The University with many of our outstanding citizens, some of whom were also to become distinguished jurists, a Governor and Lieutenant Governors, Congressmen, legislators, educators and lawyers including Godfrey Cheshire, Clayton Moore, Lester A. Martin, John J. Parker, John Dawson, O. Max Gardner, R. T. Fountain, Lemuel Gibbons, Walter B. Stacy, Hyman Phillips, Bennett Perry, Don McRae, Kemp Battle, Tom McNeil, Frank Dunlap, William B. Rodman, Lindsay C. Warren, J. Bayard Clark, Wilson Warlick, Stanley Winborne, Bert James, Percy

McMullan, Wallace Winborne, Fred Sutton, Frank Graham, Frank Winslow, and Carlisle W. Higgins; and

Whereas, upon admission to the bar, Judge W. H. S. Burgwyn began the practice of law in Jackson, North Carolina, but moved to Woodland, North Carolina, in 1911 after his marriage to the late Josephine Griffin of Woodland; and

Whereas, he practiced law with Eric Norfleet, Esquire, in Woodland and in Jackson, North Carolina, until he went on the bench in 1937; and

Whereas, Judge Burgwyn also maintained substantial farming interests in Northampton, Hertford, and Bertie Counties; and

Whereas, during his long and honorable career, Judge W. H. S. Burgwyn served in the State Senate in 1917, 1919, 1921 and 1925; serving as President Pro Tem of the State Senate in 1925; and served in the State House of Representatives in 1923; was a trustee of The University of North Carolina from 1913 to 1932; was appointed solicitor of the Third Judicial District in 1932 by Governor O. Max Gardner and served in that capacity for the five succeeding years; and

Whereas, Judge W. H. S. Burgwyn was chairman of the Roanoke Valley Flood Control Committee which played a major role in the construction of Buggs Island Dam during the late 1940's; and

Whereas, Judge Burgwyn was appointed a Special Superior Court Judge in 1937 by Governor Clyde R. Hoey, in which capacity he was reappointed by succeeding Governors and served until his retirement in 1953, when he became an emergency judge and continued to hold court almost on a regular basis until he was 85 years of age, holding court in approximately 88 of 100 counties; and

Whereas, Judge Burgwyn was a devout Episcopalian and member of the Church of the Savior in Jackson, North Carolina, his favorite hymn being "The Church's One Foundation", which was sung at his funeral; and

Whereas, Judge Burgwyn was a loyal Mason, Knight Templar, and Shriner; and

Whereas, Judge W. H. S. Burgwyn was a loyal Democrat, as is attested by his remark to his friend, Justice J. William Copeland, on the evening of January 23, 1977, three days after the inauguration of Jimmy Carter as President of the United States, and only a few hours before his death that "I was born in the Democratic administration of Cleveland and I thank God I will die under a Democratic administration"; and

Whereas, Judge Burgwyn is survived by three sons and one daughter, fourteen grandchildren and several great grandchildren; and

Whereas, Judge W. H. S. Burgwyn's philosophy of life and death is so well exemplified in his favorite poem, "Crossing the Bar" by Alfred Lord Tennyson, that it is appropriate at this time to quote the poem:

"Sunset and evening star,
And one clear call for me'
And may there be no moaning of the Bar,
when I put out to sea,
But such a tide as moving seems asleep,
Too full for sound and foam,
When that which drew from out the boundless deep,
Turns again home.
Twilight and evening bell,

And after that the dark'
And may there be no sadness of farewell,
When I embark;
For though from out our bourne of Time and Place
The flood may bear me far,
I hope to see my Pilot face to face,
When I have crossed the Bar."

Whereas, the General Assembly desires to honor the memory of Judge W. H. S. Burgwyn and express its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That in the death of Judge W. H. S. Burgwyn, the State of North Carolina has lost one of its most able and conscientious citizens and public servants.

Sec. 2. That the General Assembly does hereby express its appreciation and gratitude for the life and career of Judge W. H. S. Burgwyn.

Sec. 3. That the General Assembly extends its sincere sympathy to the family of Judge W. H. S. Burgwyn in the loss of its distinguished member.

Sec. 4. That the Secretary of State shall cause a certified copy of this resolution to be transmitted to the family of Judge W. H. S. Burgwyn.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1977.

S. R. 167 RESOLUTION 9

A JOINT RESOLUTION DESIGNATING THE THIRD WEEK IN APRIL AS "NATIONAL LIBRARY WEEK".

Whereas, the libraries in the State and nation will be celebrating the week of April 17-23, 1977, as "National Library Week"; and

Whereas, the libraries in the State of North Carolina are of utmost importance and should be recognized during the observance of "National Library Week"; and

Whereas, in appreciation of the services rendered to the people of North Carolina by our libraries, the people of North Carolina are asked to regard this event with great respect;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina General Assembly endorses the week of April 17-23, 1977, as "National Library Week" and that the Governor of North Carolina be authorized to proclaim such week as "National Library Week".

Sec. 2. That the people of North Carolina shall observe the proclaimed week with appropriate ceremonies and activities throughout all educational institutions, schools and public libraries.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1977.

H. R. 471 **RESOLUTION 10**

A JOINT RESOLUTION OF COMMENDATION AND CONGRATULATIONS TO THE TOWN OF SMITHFIELD ON CELEBRATING ITS BICENTENNIAL.

Whereas, the Town of Smithfield was incorporated by act of the General Assembly on April 23, 1777; and

Whereas, during this long period of its history the Town of Smithfield has been outstanding in its contributions to the quality of life in the eastern region of North Carolina and has seen many of its sons and daughters fill outstanding roles of leadership and service to the State and Nation; and

Whereas, the people of the Smithfield community are uniting in an appropriate celebration of its two hundredth anniversary by providing many festivities, to wit:

1. An opening ceremony to be held on April 1, 1977, at the Municipal Building, wherein the mayor will proclaim April as Smithfield's "Bicentennial Month".

2. A dedication of Smithfield's Bicentennial Flag and Display Cabinet.

3. A showing of historical artifacts on loan to the town from the local citizens of Smithfield.

4. A concert by the North Carolina Little Symphony presented as a birthday gift from five local leading industries.

5. An outdoor drama and chorus.

6. Class reunions of Smithfield's two high schools no longer in existence: Johnston Central High School (formerly Johnston County Training School) and Smithfield High School.

7. Agricultural and industrial displays.

8. Antique car show.

9. Arts and crafts festival.

10. The dedication of a time capsule vault.

11. A ceremony placing the hand prints of dignitaries in concrete.

12. The printing of an anniversary edition of "The Smithfield Herald".

13. Historical window displays in downtown Smithfield.

14. Tours of homes—old and new.

15. A parade featuring historical floats designed by each of the five schools serving Smithfield students, and a float depicting the Mayor and Commissioners in colonial dress reenacting the signing of the original charter.

16. An afternoon worship service on April 24, 1977, with all of Smithfield's churches participating.

17. Clean-up campaign.

18. Heritage Ball; and

Whereas, the people of the Smithfield community and the members of the Bicentennial Commission desire to invite the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, members of the North Carolina General Assembly, the Council of State, State officials and employees, and the people of North Carolina to attend the Bicentennial during said period of celebration;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly congratulates the Town of Smithfield on its two hundredth anniversary and takes pride in the colorful and significant history of said town and the progress of its citizens.

Sec. 2. That the General Assembly proudly recognizes the contributions made to our State and Nation over the years by the leaders of the Smithfield community.

Sec. 3. That a copy of this resolution shall be certified by the Secretary of State and mailed to the officials of the Town of Smithfield.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1977.

S. R. 50 RESOLUTION 11

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE CLAYTON HIGH SCHOOL BASKETBALL TEAM OF CLAYTON FOR ITS PERFORMANCE AND SPORTSMANSHIP IN WINNING THE STATE 2-A CONFERENCE BASKETBALL CHAMPIONSHIP IN 1976.

Whereas, the Clayton High School basketball team brought honor to Clayton and Johnston County by winning the North Carolina State 2-A Basketball Championship; and

Whereas, the Clayton High School basketball team did display great sportsmanship, team play and skill to win this championship; and

Whereas, each member of the team, Tracy Castleberry, Steve Mitchell, Tony Adams, Donald Sinclair, Robert Poole, Jim Sheares, Rusty Barbour, Alex Hatcher, Dale Fuller, Robbie Norris, Jeff Pearson, Terry Lee and George Sanders, did perform their best in the true tradition of good sportsmanship and finished in style; and

Whereas, the members of the basketball team received loyal support from the administration, fellow students and faculty members of Clayton High School and from citizens of Clayton and Johnston County; and

Whereas, the Clayton High School basketball team did receive inspiration and instruction from the coach of the team, Jeff Adams, and assistant coach, Andy Pleasant, and did receive administrative guidance from Athletic Director Glenn Nixon and Principal James O. Waters; and

Whereas, the Clayton High School basketball team did receive valuable support and assistance from the manager, Larry Batts, the trainer, Craig Davis, the scorer, Denise Joyner and the statistician, Randy Johnson;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the entire basketball team, Coach Jeff Adams, Assistant Coach Andy Pleasant, Athletic Director Glenn Nixon and Principal James O. Waters of Clayton High School in Clayton for the outstanding season the Clayton High School basketball team has had this year and for winning the North Carolina State 2-A Basketball Championship.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1977.

S. R. 245 **RESOLUTION 12**

A JOINT RESOLUTION HONORING AND COMMENDING THE NORTH CAROLINA STUDENT LEGISLATURE FOR ITS EXCELLENCE AS AN EDUCATIONAL OPPORTUNITY FOR THE FUTURE LEADERS OF THE STATE OF NORTH CAROLINA.

Whereas, the North Carolina Student Legislature is an educational, nonpartisan mock legislative assembly; and

Whereas, the North Carolina Student Legislature represents approximately 40 universities, colleges, community colleges, and technical institutions in North Carolina; and

Whereas, the North Carolina Student Legislature provides the students of this State with an unprecedented educational experience, as well as providing ideas for legislation to the General Assembly of North Carolina; and

Whereas, the North Carolina Student Legislature, in its 40th year of existence is the longest continuing State student legislature in the nation; and

Whereas, the North Carolina Student Legislature has provided the State with numerous governmental, cultural, civic, and community leaders; and

Whereas, the week of March 21-March 27 has been declared as North Carolina Student Legislature Week in coordination with the North Carolina Student Legislature's annual legislative session by Governor James B. Hunt, Jr.;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina General Assembly goes on record as commending the North Carolina Student Legislature on its excellence as an educational opportunity for the future leaders of this State.

Sec. 2. That a copy of this resolution be duly certified by the Secretary of State and transmitted to the Governor of the North Carolina Student Legislature, Gary Thomas of Fuquay-Varina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

H. R. 17 **RESOLUTION 13**

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE EAST BLADEN HIGH SCHOOL SENIOR BAND OF ELIZABETHTOWN FOR BEING SELECTED TO REPRESENT NORTH CAROLINA IN THE NATIONAL INAUGURAL PARADE.

Whereas, President-elect Jimmy Carter will be inaugurated as our thirty-ninth President on January 20, 1977; and

Whereas, the State of North Carolina is allowed to have one band to represent the State at this inaugural celebration; and

Whereas, Governor James B. Hunt has selected the East Bladen High School Band to represent North Carolina; and

Whereas, the 1976-77 band is composed of the following members: Ray B. Haney, Director; Kay Sloppy, Student Instructor; Scott Absher, Melanie Adams, Patricia Atkinson, Tracy Autry, Cheryl Baker, Dan Baker, Eddie Barnes, Juanita Barnes, Tammy Baxley, Daniel Beatty, Gary Bramble, Billy Brantley, Lisa Brice, Paulette Britt, Jane Brown, Greg Bullard, Seophus

Campbell, Dale Carter, Donna Carter, Joanne Chadwick, Charlie Chung, Angela Ciani, Andy Clark, Carolyn Clark, Tony Corey, John Cross, Rebecca Cross, Julie Davis, Kim Davis, Scott Edwards, Scott Fisher, Gwen Gillespie, Donna Gooden, Kim Gooden, Steve Guyton, Dianne Hall, Julie Hall, Debbie Hancock, Ray Haney, Mark Haynes, Julie Herring, Ricky Hester, Kelly Howell, Billy Huggins, Helen Inman, Sheila Inman, Robert Jessup, Johanna Johnson, Martha Johnson, Tillie Johnson, Richard Jones, Debbie Jordan, Lisa Keith, Anita Kinlaw, Bret Lee, Annie Lessane, David Lewis, Mike Lewis, Pat Lewis, Shari Lewis, Tammy Lewis, Karen Lomax, Debbie McCall, Pam McKeithan, Lee Marvin McKoy, Timmy Mayes, Robert Mazur, Greg Melvin, Kim Moore, David Morgan, Mike Nye, Robert O'Briant, Penny Odom, Jeanne Page, Jill Page, Tracy Parrish, James Perkins, Kent Porter, Bernard Powell, Tommye Powers, Phoebe Priest, Lawrence Raynor, Jay Register, Lisa Register, Robin Ricks, Susan Rogers, Sandra Ross, Donna Sellers, Kathy Shaw, Sybil Smith, Debbie Strouse, Barbara Suggs, Julia Summerling, Al Taylor, Dale Taylor, Greg Taylor, Lance Walters, Karen West, Dennis Williams, Jennifer Williams, Kenneth Williams, Rudy Williams, Sherry Williams, Gayla Simmons, Teri Holland, Connie Walters, John Callaway, and Angie Johnson; and

Whereas, the high performance and ability of this band has brought honor to East Bladen High School and to the entire State of North Carolina; and

Whereas, the East Bladen High School Band did receive inspiration and instruction from Director Ray B. Haney;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extend congratulations to the entire band, and Director Ray B. Haney, for their outstanding achievements.

Sec. 2. That the Secretary of State send a copy of this resolution to Director Ray B. Haney and each member of the band; and that the General Assembly direct that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

H. R. 213 RESOLUTION 14

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HAL W. LITTLE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas Hal W. Little, son of Henry Wall and Effie Allen Little, was born on August 11, 1905, in Wadesboro, and died in the Anson County Hospital on November 30, 1976; and

Whereas, Hal W. Little attended Wadesboro High School and Duke University and began his business career when he joined his father in the operation of H. W. Little and Company in Wadesboro; and

Whereas, Hal W. Little, served his community, his county and his State with great honor and distinction; and

Whereas, Hal W. Little, worked unselfishly for the business community of Anson County, serving on the boards of directors of American Bank and Trust Company, West Knitting Corporation, Wade Manufacturing Company,

Hornwood, Inc., Charles Craft, Inc., and North Carolina Telephone Company; and

Whereas, Hal W. Little served his country as a Captain in the Transportation Corps with the United States Army and was honorably discharged in 1945; and

Whereas, Hal W. Little worked tirelessly for the good of his region and for the State, having served on the Anson County Board of Commissioners for two terms from 1934 until 1942 and represented Anson County in the North Carolina General Assembly for three terms from 1949 until 1953; and

Whereas, Hal W. Little was appointed by Governor Luther Hodges to the Board of Trustees of Pembroke State University and later was named chairman of that board, and was also a member of the advisory board of Wingate College; and

Whereas, Hal W. Little was active throughout his life in numerous civic organizations, being a member and President of the Wadesboro Rotary Club, District Governor of Rotary International, member and President of the Anson Executive Club, member of Woodmen of the World and member of the American Yarn Spinners Association; and

Whereas, Hal W. Little is survived by his widow, Mrs. Mary Louise Robbins Little of Wadesboro; one daughter, Miss Dora Ann Little; and one son, Henry Wall Little III, both of the home; and

Whereas, in the passing of Hal W. Little, North Carolina and Anson County have lost one of their most devoted and respected citizens;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly honors the memory of Hal W. Little and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to the family of Hal W. Little.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

H. R. 559 RESOLUTION 15

A JOINT RESOLUTION URGING THE WAYS AND MEANS COMMITTEE OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES CONGRESS TO APPROVE ANY ONE OF THREE BILLS TO DESIGNATE A LEGISLATOR'S HOME DISTRICT AS HIS TAX HOME FOR INCOME TAX PURPOSES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina feels that it is essential that each member of a state legislature be authorized to treat his home district as his tax home for income tax purposes, and that this authority be clearly and finally established prior to the April 15 deadline for filing tax returns for 1976.

Sec. 2. That the General Assembly of North Carolina urges the Ways and Means Committee of the House of Representatives of the United States

Congress to act favorably on any one of HR 3812, HR 4007, or HR 4611 which are now before that committee and which will achieve the end stated in Section 1 of this resolution.

Sec. 3. That the Secretary of State of North Carolina send a certified copy of this resolution to the Honorable Al Ullman, Chairman of the House Ways and Means Committee, and to the Honorable James G. Martin, of North Carolina, a member of the House Ways and Means Committee.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1977.

H. R. 65 RESOLUTION 16

A JOINT RESOLUTION EXCLUDING RESOLUTIONS HONORING BIRTHDAYS, DAYS, WEEKS, EVENTS AND LIVING MEMBERS OF THE HOUSE AND SENATE.

Whereas, numerous resolutions are introduced in the House of Representatives and Senate honoring birthdays, days, weeks, events, living members of the House and Senate and other unnecessary matters and occasions; and

Whereas, the time required for the consideration of such resolutions could be more expeditiously expended in the consideration of more important legislation; and

Whereas, the expense of printing, reproducing and distributing such resolutions should be curtailed; and

Whereas, it is desirable to conserve the time and minimize the expenses of both houses of the legislature;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That all celebration, commendation, and commemoration resolutions, except those honoring the memory of deceased persons, be excluded from introduction in the House or Senate.

Sec. 2. This resolution shall become effective on April 15, 1977.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. R. 210 RESOLUTION 17

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF JAMES LARKIN PEARSON.

Whereas, James Larkin Pearson was born in Wilkes County September 13, 1879, and has celebrated his 97th birthday; and

Whereas, James Larkin Pearson is a true poet of the people, springing from the mountain folk whose lore he has immortalized in poetic language, printed with his own hands, and given to the world; and

Whereas, James Larkin Pearson was appointed poet laureate August 4, 1956, by Governor William B. Umstead; and

Whereas, James Larkin Pearson is the only poet to have received recognition as poet laureate in North Carolina; and

Whereas, James Larkin Pearson has received national recognition and has given some fame to North Carolina through his poetry; and

Whereas, James Larkin Pearson has received additional national recognition as the author and printer of the *Fool Killer* and writer for the *Yellow Jacket*; and

Whereas, James Larkin Pearson had April, 1971, declared James Larkin Pearson Month in North Carolina by Governor Robert W. Scott; and

Whereas, James Larkin Pearson, on September 13, 1976, received the title "Honorable" in a Citizen Service Award as a result of his service by Governor James Holshouser; and

Whereas, James Larkin Pearson was honored by the Town of Wilkesboro, which proclaimed the week of September 12, 1976, James Larkin Pearson Week; and

Whereas, James Larkin Pearson received the first honorary A.A. degree from Wilkes Community College, September 12, 1976; and

Whereas, James Larkin Pearson was married May 1, 1907, to Cora Wallace, a writer, and has one daughter, Agnes Eller; and

Whereas, James Larkin Pearson was married in 1939 to Eleanor Fox, researcher in the study of Dolly Madison; and

Whereas, James Larkin Pearson has willed his library, printing press, and other realia to Wilkes Community College, a State institution;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina recognizes James Larkin Pearson's birthday celebration, September 13, 1977.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to the family of James Larkin Pearson.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. R. 343 RESOLUTION 18

A JOINT RESOLUTION CONCERNING THE NEED FOR FEDERAL LEGISLATION TO ELIMINATE THE FINANCIAL HARDSHIPS IMPOSED UPON CERTAIN AGED AND DISABLED PERSONS IN RECEIPT OF DISABILITY AND DEATH BENEFITS FROM THE VETERANS ADMINISTRATION DUE TO PERIODIC INCREASES IN SOCIAL SECURITY MONETARY BENEFITS.

Whereas, substantial numbers of veterans, their dependents, and the survivors of deceased veterans receive monthly benefits from the Veterans Administration and Social Security; and

Whereas, certain benefits paid by the Veterans Administration are dependent upon income levels established by the Congress of the United States of America; and

Whereas, monies received from Social Security are taken into consideration in determining entitlement to certain Veterans Administration benefit payments; and

Whereas, annual increases are made in Social Security benefits based upon continuing increases in the cost of living without corresponding increases in Veterans Administration income levels; and

Whereas, this inequity causes many Veterans Administration beneficiaries to lose all or part of their veterans' benefits; and

Whereas, the needs of veterans, their dependents, and their survivors are more and more demanding on their limited incomes because of the continuing rise in the cost of food, housing, clothing, transportation, medical services, and other essentials; and

Whereas, the mental and physical stress, anxiety, and hardships brought upon these aged and disabled persons annually by the reduction in their available financial resources is of great concern to the citizens of the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina respectfully petitions the Congress of the United States to consider enacting legislation which will ensure that all persons who served in the Armed Forces of the United States of America, their dependents, and their survivors will have the full measure of any Social Security increases without suffering reductions in their veterans' pension income maintenance payments.

Sec. 2. That the Secretary of State is hereby directed to prepare and deliver certified copies of this resolution to the President of the United States and to members of Congress and the Governor and Senators of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1977.

H. R. 268 RESOLUTION 19

A JOINT RESOLUTION PROVIDING FOR THE PROCEDURE FOR NOMINATING AND ELECTING MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, the General Assembly is charged with the responsibility of electing members of the Board of Governors of The University of North Carolina; and

Whereas, it is incumbent upon both the Senate and the House of Representatives to have uniform methods and procedures for electing members of the Board of Governors of The University of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. There are hereby adopted procedures for nominating and electing members of the Board of Governors of The University of North Carolina as follows:

I. JOINT SESSION-RESPONSIBILITIES

1. It is the duty of the University Board of Governors Nominating Committee in the House of Representatives to nominate at least two candidates for each opening in each category of seats on the Board of Governors of The

University of North Carolina to which the House of Representatives is to elect members. It is the duty of the University Board of Governors Committee in the Senate to nominate at least two candidates for each opening in each category of seats on the Board of Governors of The University of North Carolina to which the Senate is to elect members. The Committees may act separately or in joint session, as the Committees may determine, for the purpose of carrying out this duty.

2. Meeting separately or in joint session, as the Committees may determine, the Committees will screen nominees as to their qualifications and background, making sure that suitable candidates are nominated for each category, and that each is willing and able to serve and has no statutory disabilities.

3. Committee nominations will be placed before a joint session of the House and Senate.

II. JOINT SESSION - NOMINATIONS

1. In the joint session of the Senate and House of Representatives, the floor shall be opened for nominations after the committee report has been made. Nominations shall be grouped into six categories, as required by G.S. 116-6:

(1) Women for eight-year term
(2) Minority race members for eight-year term
(3) Republicans for eight-year term
(4) At-large candidates for eight-year term
(5) At-large candidates for four-year term
(6) At-large candidates for two-year term

2. In placing a name in nomination, the nominator shall state the category for which his nominee is being nominated. An individual cannot be nominated in more than one category.

3. There is no limit to the number of persons a Senator or Representative may nominate.

4. Nominations shall continue until the number of nominees is at least twice the number of places to be filled in each category, that is, there shall be a minimum of two women, two republicans, two racial minority members, and 10 at-large candidates for eight-year terms; a minimum of two at-large candidates for a four-year term; and a minimum of two at-large candidates for a two-year term.

5. No vote will be taken on nominees in the joint session. When all nominations have been received, the joint session will be dissolved.

6. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate shall contact all nominees and ascertain whether they would serve if elected. Any nominee may withdraw his name without the approval of his nominator. If withdrawals reduce the number of candidates below twice the number of places to be filled in any category, another joint session of the Senate and House shall be held to receive sufficient additional nominations in that category.

III. ELECTIONS IN THE SENATE

1. A ballot shall be prepared under the supervision of the Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors

Committee in the Senate for the use of the Senate. The ballot shall list all nominees of the joint session who have consented to run and their names shall be arranged (a) by length of term, (b) by category, and (c) within each category, alphabetically by surname.

2. The Senators shall proceed to mark their ballots for the following:

One person in the women's category for an eight-year term

One person in the minority race category for an eight-year term

No person in the Republican category for an eight-year term

Two persons in the at-large category for eight-year terms

One person in the at-large category for a four-year term.

3. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate shall be responsible for canvassing the vote and declaring the results thereof.

4. In order to be chosen, a nominee must receive a majority of all the votes cast for his category. When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast. When fewer than three candidates in the at-large category receive a majority of all the votes cast for positions in that category, a runoff to fill the open position or positions shall be conducted among the persons receiving the highest number of votes cast, and the number of persons to be voted on in the runoff shall be twice the number of positions remaining to be filled.

5. When the Chairman of the University Board of Governors Committee in the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives have determined that the Senate has chosen one member of the Board of Governors who is a woman for a term of eight years, one member of the Board of Governors who is a member of a minority race for a term of eight years, two members of the Board of Governors from the at-large category for a term of eight years, and one member of the Board of Governors from the at-large category for a term of four years, the Chairman of the University Board of Governors Committee in the Senate shall make a motion for the simultaneous election of those five persons by the Senate to the indicated positions and for the indicated terms. The roll of the Senate then shall be called, and each Senator who is present shall vote "aye" or "no" on the motion of the Chairman. If a majority of those voting shall vote "aye", the persons whose names appear on the list shall be declared to have been elected.

IV. ELECTIONS IN THE HOUSE OF REPRESENTATIVES

1. A ballot shall then be prepared under the supervision of the Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate for the use of the House of Representatives. The ballot shall list all nominees of the joint session who have consented to run, and their names shall be arranged (a) by length of term, (b) by category, and (c) within each category, alphabetically by surname. The names of the persons who have been elected to the Board of Governors by the Senate shall be appropriately marked.

2. The Representatives shall proceed to mark their ballots for the following:

One person in the Republican category for an eight-year term

No person in the women's category for an eight-year term

No person in the minority race category for an eight-year term

Three persons in the at-large category for eight-year terms

One person in the at-large category for a two-year term.

3. The Chairman of the University Board of Governors Committee in the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives shall be responsible for canvassing the vote and declaring the results thereof.

4. In order to be chosen, a nominee must receive a majority of all the votes cast for his category. When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast. When fewer than two candidates in the eight-year at-large category receive a majority of all the votes cast for positions in that category, a runoff to fill the open position or positions shall be conducted among the persons receiving the highest number of votes cast, and the number of persons to be voted on in the runoff shall be twice the number of positions remaining to be filled.

5. When the Chairman of the University Board of Governors Committee in the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives have determined that the House of Representatives has chosen one member of the Board of Governors who is a Republican for a term of eight years, three members of the Board of Governors from the at-large category for a term of eight years, and one member of the Board of Governors from the at-large category for a term of two years, the Chairman of the University Board of Governors Nominating Committee in the House of Representatives shall make a motion for the simultaneous election of those five persons by the House to the indicated positions and for the indicated terms. The roll of the House then shall be called, and each Representative who is present shall vote "aye" or "no" on the motion of the Chairman. If a majority of those voting shall vote "aye", the persons whose names appear on the list shall be declared to have been elected.

V. NOTIFICATION OF ELECTION RESULTS

1. When the election process is complete, the Chairman of the University Board of Governors Committee in the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives shall notify the Secretary of the Board of Governors of The University of North Carolina of the names of the persons elected by the General Assembly and the category for which and terms for which each of them was elected.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1977.

H. R. 246 **RESOLUTION 20**

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF LINDSAY CARTER WARREN, FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, Lindsay Carter Warren, one of North Carolina's most distinguished citizens and public servants, died at the age of 87 on December 28, 1976; and

Whereas, the General Assembly, in recognition of the deep debt which this State and its people owe to him, desires to honor his life, his service and memory; and

Whereas, Lindsay Carter Warren, son of Charles F. and Elizabeth Mutter Warren, was born on December 16, 1889, in Washington, North Carolina, and attended Bingham School of Asheville, North Carolina, from 1903-1906; attended The University of North Carolina in 1908 and later enrolled and attended The University of North Carolina Law School and was subsequently admitted to the Bar in 1912; and

Whereas, Lindsay Carter Warren served his political party as Chairman of the Beaufort County Democratic Executive Committee from 1912-1925, as Chairman of the Democratic State Platform Committee in 1920, as Chairman of the Democratic State Convention from 1930-1934, as temporary Chairman and Keynoter in 1938, and as delegate to the Democratic National Convention in 1932 and 1940; and

Whereas, Lindsay Carter Warren served with great honor and distinction in the North Carolina Senate in 1917, 1919, 1959 and 1961 (serving as President Pro Tempore in 1919), and in the North Carolina House of Representatives in 1923; and

Whereas, Lindsay Carter Warren served the citizens of the First Congressional District of North Carolina as a member of the United States House of Representatives for 16 years from 1925-1940, serving as Chairman of the Committee on Accounts and as acting House Majority Leader; and

Whereas, Lindsay Carter Warren, during his years in Congress, authored many pieces of legislation including government reorganization, establishment of the Cape Hatteras National Seashore Park, the Wright Memorial and the Coast Guard Air Base, and numerous legislative proposals in regard to agriculture; and

Whereas, Lindsay Carter Warren was appointed by President Franklin D. Roosevelt as Comptroller General of the United States in 1940, serving all of the people of the nation in this capacity for 13 1/2 years before retiring on May 1, 1954, due to physical disability; and

Whereas, Lindsay Carter Warren served his community and his church in various public and private ways which included many areas of service, such as alternate to the American Bar Association Convention of 1916, County Attorney of Beaufort County, Chairman of the Legal Advisory Board of Beaufort County and Government Appeal Agent during World War I, Chairman of the Legislative Commission for the Workman's Compensation Act of 1920, Trustee of The University of North Carolina from 1921-1925, member of the North Carolina Constitutional Convention in 1931, Director of the First National Bank of Washington, President of the Kiwanis Club, and member of St. Peter's Episcopal Church; and

Whereas, Lindsay Carter Warren, in 1953 was given the North Carolina Citizens Association Distinguished Citizen Award for 40 years of public service to his community, State, and nation; and

Whereas, Lindsay Carter Warren was honored by Di-Phi Society of The University of North Carolina as "that alumnus who has rendered the most outstanding service to his State and nation"; and in 1948 was awarded an honorary Doctor of Laws degree by his alma mater; and

Whereas, Lindsey Carter Warren was in the forefront of the fight for the bridge across the Alligator River, which bridge today bears his name; and

Whereas, Lindsay Carter Warren was held in the highest esteem, admiration and respect by his fellow legislators, his constituents and the general public as was demonstrated by the affectionate nicknames by which he was known, including "Admiral of the Coast Guard" for his legislation relating to the sea, "Watchdog of the Treasury" for his contributions to economy in government during his term as Comptroller General, and the "Lion of Beaufort" for his singular efforts on behalf of the people of Beaufort County and eastern North Carolina; and

Whereas, Lindsay Carter Warren's oratorical skills were often praised by his colleagues who became most attentive when he rose to assume the floor; and

Whereas, Lindsay Carter Warren is survived by his widow, Emily H. Warren; a daughter, Mrs. Emily Warren Jones of Wilson; two sons, Lindsay C. Warren, Jr., of Goldsboro and Charles F. Warren of Washington, D.C.; four grandchildren and two great-grandchildren; and

Whereas, Lindsay Carter Warren devoted his full life to public service. His contributions to his community, to his State and to his nation are symbols of a faithful and loyal career as a citizen and public servant. He shall be long remembered and cherished forever in the history of this State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses high regard for the life and service of Lindsay Carter Warren and mourns the loss of one of its gifted, beloved and admirable citizens.

Sec. 2. The General Assembly extends to the family of Lindsay Carter Warren its deepest sympathy in the loss of their loved one.

Sec. 3. The Secretary of State is directed to transmit a certified copy of this resolution to the family of Lindsay Carter Warren.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1977.

H. R. 56 **RESOLUTION 21**

A JOINT RESOLUTION HONORING HIGH POINT ANDREWS HIGH SCHOOL, WINNER OF THE NORTH CAROLINA 4-A FOOTBALL CHAMPIONSHIP.

Whereas, the football team of High Point Andrews has brought honor to their town and school by winning of the North Carolina 4-A football championship.

Whereas, High Point Andrews did display great togetherness and team play to win this championship; and

Whereas, each member of the team did perform his best in the true tradition of good sportsmanship; and

Whereas, the members of the High Point Andrews team did receive inspiration and instruction from their honorable coaches; and

Whereas, the football team has magnificently played an outstanding season under the leadership of their captains;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina hereby congratulates the High Point Andrews football team, including the team members and coaching staffs, for their accomplishments and achievements during the 1976 football season; namely, for being the winners of the 4-A football championship.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. R. 329 **RESOLUTION 22**

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE BASKETBALL TEAM OF THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE.

Whereas, The University of North Carolina at Charlotte is only 12 years old, having been established by the North Carolina General Assembly on March 3, 1965; and

Whereas, the UNCC basketball program has only been engaging in major competition eight years; and

Whereas, the team has achieved national recognition despite such humble beginnings as having borrowed public school gymnasiums for early practice and competition; and

Whereas, the team has struggled against such adversity as being denied games by established teams; and

Whereas, recruiting and fund raising have been accomplished with great difficulty; and

Whereas, leading players of the team come from Cary, Kinston, Pineville and Reidsville, as well as from many other fine areas of our country; and

Whereas, the players and the coaches have represented North Carolina with distinction and honor and have exemplified the State motto, "*Esse Quam Videri*", To Be Rather Than to Seem;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina General Assembly commends the "Mean Green" of The University of North Carolina at Charlotte and congratulates them for helping to make North Carolina the Basketball Capital of the World.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. R. 333 RESOLUTION 23

A JOINT RESOLUTION HONORING THE BASKETBALL TEAM OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL FOR ITS EXCELLENT PERFORMANCE IN THE NCAA FINALS.

Whereas, the basketball team of The University of North Carolina at Chapel Hill was the Atlantic Coast Conference regular season champions and also won the Atlantic Coast Conference Tournament, which earned them the right to represent the ACC and the State of North Carolina in the NCAA Tournament; and

Whereas, the Tar Heels were rated in the top 20 by both the United Press International and the Associated Press polls throughout the 1976-77 basketball season; and

Whereas, each member of the team, Walter Davis, John Kuester, Tommy LaGarde, Phil Ford, Mike O'Koren, Rich Yonakor, Steve Krafcisin, Tom Zaliagiris, Dudley Bradley, Jeff Wolf, Bruce Buckley, David Colescott, Woody Coley, Ged Doughton, John Virgil and Randy Wiel did display great togetherness and team play to advance to the finals of the NCAA Tournament; and

Whereas, Walter Davis and John Kuester, both seniors, were named to the All Tournament Team; and

Whereas, all the members of The University of North Carolina basketball team made key contributions during the regular season in the ACC Tournament, in the Eastern Regionals and in the finals of the NCAA Tournament; and

Whereas, the Tar Heels, coached by Dean Smith, finished the season with a 28-5 record;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this august body do honor and pay tribute to these outstanding achievements and accomplishments by The University of North Carolina student-athletes and coaches and congratulates them on their excellent performance in the NCAA Tournament.

Sec. 2. That a certified copy of this resolution be sent by the Secretary of State to the entire University of North Carolina basketball team, to their coaches, Dean Smith, Eddie Fogler and Bill Guthridge; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day April, 1977.

H. R. 400 RESOLUTION 24

A JOINT RESOLUTION HONORING THE 1976 MASTERS GOLF TOURNAMENT CHAMPION, NORTH CAROLINIAN RAYMOND FLOYD.

Whereas, Raymond Loran Floyd was born on September 4, 1942, at Fort Bragg, North Carolina; and

Whereas, Raymond Floyd's parents, Mr. and Mrs. L. B. Floyd now live in Cumberland County, North Carolina, where the senior Floyd operates the Cypress Lakes Golf Course; and

Whereas, Raymond Floyd joined the professional golf tour in 1963 and was chosen Rookie of the Year in his sport; and

Whereas, Raymond Floyd won the St. Petersburg Open in 1963; the St. Paul Open in 1965; the PGA Championship, the Jacksonville Open and the American Golf Classic, where he was the first person in its history to score four sub-par rounds, in 1969; and the Kemper Open in 1975; and

Whereas, Raymond Floyd was a member of the 1975 United States Ryder Cup Team; and

Whereas, Raymond Floyd was the 1976 World Open Champion in Pinehurst, North Carolina; and

Whereas, on Sunday, April 11, 1976, Raymond Floyd won the 1976 Masters Golf Tournament Championship at the Augusta National Golf Club, setting the following new records: the 36-hole record of 131, the 54-hole record of 201, and the cumulative total on five-par holes record of 14 under par; and

Whereas, in his 1976 Masters victory Raymond Floyd tied the 72-hole Masters record of 271 set by Jack Nicklaus in 1965; and

Whereas, in winning the 40th Masters Championship by eight strokes, Raymond Floyd became only the fourth man to lead all four rounds without being tied; and

Whereas, Raymond Floyd was voted by his fellow professional golfers as player of the year for 1976; and

Whereas, the members of the General Assembly of North Carolina felt that it is important to provide recognition and congratulations to a North Carolinian who has excelled in his sport and has recently brought honor to his home state;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extending its congratulations to Raymond Loran Floyd, to his wife and two children, and to his parents for his record-setting victory in the 1976 Masters and excellent career in Professional Golf.

Sec. 2. That the General Assembly honors Raymond Floyd for bringing recognition to his home state of North Carolina by his exemplary sportsmanlike demeanor and his brilliant show of golfing abilities in the winning of the 40th Masters Golf Championship in 1976.

Sec. 3. That copies of this resolution shall be sent by the Secretary of State to Raymond Floyd, his parents and to the World Golf Hall of Fame in Pinehurst.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. R. 401

RESOLUTION 25

A JOINT RESOLUTION RECOGNIZING AND CONGRATULATING FAYETTEVILLE STATE UNIVERSITY FOR THE MANY CONTRIBUTIONS IT HAS MADE IN THE PAST ONE HUNDRED YEARS.

Whereas, on March 8, 1877, the General Assembly of North Carolina enacted legislation providing for the establishment of normal schools for the education of teachers; and

Whereas, The Howard School in Fayetteville, North Carolina, which had been in existence for 10 years, was chosen as one of the schools to which an appropriation would be made; and

Whereas, the institution is still in operation after 100 years and is now called Fayetteville State University, a constituent institution of The University of North Carolina; and

Whereas, Fayetteville State University has rendered valuable service to the Fayetteville, North Carolina, community, the State of North Carolina and the nation; and

Whereas, the graduates of Fayetteville State University are making their marks in industry, education, government, and religion throughout the State and nation, and are bringing recognition to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina recognizes and congratulates Fayetteville State University for the many contributions it has made in the past 100 years and that the General Assembly of North Carolina wish for Fayetteville State University continued service of excellence in high education to the people of North Carolina in its second century.

Sec. 2. That copies of this resolution shall be forwarded by the Secretary of State to the Chancellor and Board of Trustees of Fayetteville State University and the Board of Governors of The University of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. R. 127 **RESOLUTION 26**

A JOINT RESOLUTION EXPRESSING DISAPPROVAL OF PERMITTING PG, R OR X-RATED MOTION PICTURES TO BE PREVIEWED DURING THE SCREENING OF A G-RATED MOTION PICTURE.

Whereas, motion pictures are voluntarily classified as either G, PG, R or X-rated features by the motion picture industry; and

Whereas, a G-rated feature is designated as a wholesome presentation suitable for viewing by the entire family; a PG-rated feature is designated as a presentation which might contain certain subject matter which a parent might find unsuitable for viewing by children and is a presentation regarding which parents are advised to exercise good parental discretion prior to allowing a child to view the presentation; an R-rated feature is one containing sufficient subject matter which relates to or displays conduct of a violent or sexual nature that children who are younger than a specified minimum age are forbidden to view the presentation unless they are accompanied by a parent; and an X-rated feature is a presentation which contains sufficient subject matter which relates to or displays conduct of a violent or sexual nature that children who are younger than a specified minimum age are forbidden to view the presentation under any circumstances; and

Whereas, some motion picture theaters have made a practice of screening previews of PG, R and X-rated features during the general presentation of G-rated features; and

Whereas, this practice may result in the embarrassment of children and parents and the circumvention of the purposes of the motion picture rating system;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly hereby express its disapproval of the practice of permitting the screening of PG, R and X-rated motion pictures during the general screening of a G-rated motion picture.

Sec. 2. That copies of this resolution shall be transmitted to every motion picture theater owner or owner of chains of theaters in the State.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. R. 215 **RESOLUTION 27**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DR. CARL DAN KILLIAN, SR., RETIRED DEAN OF THE WESTERN CAROLINA UNIVERSITY SCHOOL OF EDUCATION AND PSYCHOLOGY AND FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Carl Dan Killian, one of North Carolina's most beloved and devoted citizens, died on January 29, 1976, in Sylva, North Carolina, after a short illness; and

Whereas, Carl Dan Killian was born in Hayesville, North Carolina, on April 10, 1903, the son of Dr. Paul Bismark Killian, former member of the North Carolina Legislature and Maud Moss Killian; and

Whereas, Carl Dan Killian obtained the degree of Bachelor of Science from North Carolina State University in 1924, the M. A. degree from Columbia University in 1927 and the Ph. D. degree from Ohio State University in 1932; and

Whereas, Carl Dan Killian worked tirelessly for the good of his region and for the State and faithfully served his county and the State, having served as a State Senator in the 1971 General Assembly, representing the 33rd Senatorial District; and

Whereas, Carl Dan Killian's career, spent largely in Western North Carolina, was made up of "firsts" in the field of education and rural health care, which included the establishment of the State's first guidance clinic at Western Carolina in 1938 which included two programs that became State and national models - the special school for intellectually gifted children and the special education programs for the mentally retarded; and

Whereas, Carl Dan Killian, during his 33 years at Western Carolina University, where he was Dean of the School of Education and Psychology, became nationally known for his pioneering work in the development of new educational programs, beginning the first organized instructional program in audiovisual education in North Carolina and spreading the use of audiovisual aids throughout the State public school system; and

Whereas, Carl Dan Killian established the western region's first speech and hearing center and was among the first to develop special classes for "disabled readers" a full 25 years before the current statewide interest in the reading problems of students; and

Whereas, Carl Dan Killian established the first comprehensive mental health-mental retardation center on a university campus in the 1960's, with clinics providing mental health services, developmental evaluation and speech and hearing diagnostic and treatment services to Southwestern North Carolina; and

Whereas, Carl Dan Killian was primarily responsible for obtaining State and federal funds for the construction of the Mental Health-Mental Retardation Center Annex on the Western Carolina University Campus; and

Whereas, Carl Dan Killian was the founder of the State of Franklin Health Council, an agency created in the late 1960's to upgrade health and medical care, another "first" in his accomplishments; and

Whereas, Carl Dan Killian was appointed by Governor Luther Hodges in 1959 to head a legislative commission to study the public school education for exceptional children, and, in 1961, the General Assembly adopted his proposals by passing a bill providing for the first comprehensive program for gifted children in the United States leading to the establishment of the Governor's School at Winston-Salem; and

Whereas, Carl Dan Killian was very active in various organizations and associations, some of which included: the Advisory Conference Committee on Extension to the Board of Higher Education of which he was chairman; the North Carolina Advisory Council on Teacher Education; the North Carolina Board of Mental Health; and the North Carolina Federation of the Council for Exceptional Children, of which he was president; and the Royal Society of Health in England, of which he was a fellow; and

Whereas, Carl Dan Killian received national professional recognition when his programs were the subject of feature articles twice in "Life Magazine"

and also when he was listed in "American Men of Science", "Who's Who in the South and Southwest", "North Carolina Lives" and "International Dictionary of Biographies"; and

Whereas, Carl Dan Killian served his community as a member of the Rotary Club and Masons and by acting as a Deacon in the Baptist Church; and

Whereas, Carl Dan Killian is survived by his widow, Winnie Alice Murphy Killian of Cullowhee and a son, Carl Dan Killian, Jr., of Cambridge, Massachusetts and St. Gallin, Switzerland;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses high regard for the life and service of Carl Dan Killian and mourns the loss of one of its gifted, beloved and respected citizens.

Sec. 2. The Secretary of State is directed to transmit a certified copy of this resolution to the family of Carl Dan Killian.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

S. R. 252 RESOLUTION 28

A JOINT RESOLUTION HONORING LOUIS ROUND WILSON.

Whereas, Louis Round Wilson was born on December 27, 1876, in Lenoir, North Carolina; and

Whereas, as a graduate student at The University of North Carolina, Louis Round Wilson became the first to receive a doctorate; and

Whereas, upon graduation from The University of North Carolina in 1899, Louis Round Wilson was named librarian in 1901. He served in that position until 1932; and

Whereas, as librarian at The University of North Carolina, Louis Round Wilson established the North Carolina Collection, the Southern Historical Collection, the School of Library Science and the University Press; and

Whereas, Louis Round Wilson helped establish the North Carolina Library Association in 1904 and the Southeastern Library Association, serving as its president from 1924 to 1926; and

Whereas, through his personal campaign Louis Round Wilson convinced the North Carolina General Assembly to establish the North Carolina Library Commission, serving as its chairman from 1909 to 1916; and

Whereas, since his retirement from teaching in 1959 at the age of 82, Louis Round Wilson has served as a consultant and advisor to The University, its president and librarians throughout the United States;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina General Assembly recognize the great contributions to North Carolina education and prosperity made by Louis Round Wilson.

Sec. 2. That the General Assembly of North Carolina applaud and thank Louis Round Wilson, a true North Carolinian, for his work.

Sec. 3. That copies of this resolution be forwarded by the Secretary of State to Louis Round Wilson and the librarian at The University of North Carolina at Chapel Hill.

Sec. 4. That this resolution become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1977.

H. R. 485 RESOLUTION 29

A JOINT RESOLUTION URGING THE UNITED STATES CONGRESS TO PROVIDE REIMBURSEMENT FOR SERVICES RENDERED BY DULY CERTIFIED AND SUPERVISED PHYSICIAN EXTENDERS.

Whereas, the State of North Carolina is predominately a rural State with fifty-five percent (55%) of its residents living in small towns or rural areas; and

Whereas, both the State with its tax revenue and certain federal programs have increased access for these rural residents to quality primary medical care through the careful use of physician extenders; and

Whereas, the functions of the extenders are carefully defined and reviewed in their supervising physician's applications to the North Carolina Board of Medical Examiners; and

Whereas, all physicians to whom such extenders are certified by action of that board review and sign all records of patient care within the time prescribed by the board; and

Whereas, Medicare is currently denying reimbursement to these primary care clinics due to legislation which requires the physical presence of the physician; and

Whereas, continued denial of such just reimbursement on behalf of its enrollees will cause the failure of some 30 primary care units in our State serving 80,000 rural residents with quality primary medical care;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Congress of the United States is hereby urged to initiate immediately a program to provide reimbursement for services rendered by duly certified and supervised physician extenders, even though their supervising physician is not physically present.

Sec. 2. That a certified copy of this resolution be sent to each member of the United States Senate from North Carolina and to each member of the United States Congress from North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. R. 544

RESOLUTION 30

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE PANTEGO HIGH SCHOOL BASKETBALL TEAM FOR ITS PERFORMANCE AND SPORTSMANSHIP IN WINNING THE STATE 1-A CONFERENCE BASKETBALL CHAMPIONSHIP.

Whereas, the Pantego High School basketball team brought honor to Pantego and Beaufort County by winning the North Carolina State 1-A Basketball Championship; and

Whereas, each member of the team, Donnie Carter, Andrea McCloud, Terry Freeman, Rodney Johnson, John Harvey, Eugene Lawrence, John Booth, Joseph Peartree, Steve Mann, Perry Hopkins, Joseph Smith, Kenneth Peartree and Wayne Jones, did perform his best in the true tradition of good sportsmanship; and

Whereas, the Pantego High School basketball team did display great togetherness and team play to win this championship; and

Whereas, the members of the Pantego High School basketball team did receive inspiration and instruction from the coach of the team, Al Baker, and assistant coach, Frank Ambrose; and

Whereas, the Pantego High School basketball team has played an outstanding season under the leadership of their captains; and

Whereas, the team received loyal support and encouragement from the members of the cheerleading squad, the administration, fellow students and faculty members of the Pantego High School and from citizens of Pantego and Beaufort County;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extend congratulations to the entire basketball team, Coach Al Baker, Assistant Coach Frank Ambrose, and Principal Joseph A. Windley of Pantego High School in Pantego, North Carolina, for its outstanding achievements and accomplishments during the 1976-77 basketball season; namely, for being the winner of the State 1-A Basketball Championship.

Sec. 2. That the Secretary of State send a copy of this resolution to each member of the team and the head coach, Al Baker, assistant coach, Frank Ambrose, the principal, Joseph A. Windley; and that the General Assembly direct that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. R. 600 **RESOLUTION 31**

A JOINT RESOLUTION HONORING AND GIVING RECOGNITION TO THE NORTH CAROLINA DANCE THEATRE.

Whereas, the North Carolina Dance Theatre was organized in 1970 and is a professional affiliate of the North Carolina School of the Arts; and

Whereas, the North Carolina Dance Theatre has received substantial support from nationally known foundations and endowments; and

Whereas, the North Carolina Dance Theatre has distinguished itself in its performances in North Carolina and many other states; and

Whereas, the North Carolina Dance Theatre has gained favorable recognition and good will for the State as North Carolina's representative in tours throughout the country;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and appreciates the honor and publicity that the North Carolina Dance Theatre has brought to the State of North Carolina through its contributions to the fine arts throughout the United States.

Sec. 2. That a certified copy of this resolution be forwarded to the North Carolina Dance Theatre.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.

H. R. 835 **RESOLUTION 32**

A JOINT RESOLUTION COMMEMORATING THE 201ST ANNIVERSARY OF THE HALIFAX RESOLVES.

Whereas, April 12, 1977, is the 201st anniversary of the occasion on which the Fourth North Carolina Provincial Congress adopted the famous Halifax Resolves; and

Whereas, the Halifax Resolves authorized the North Carolina delegates to the Continental Congress at Philadelphia to concur with the delegates of other colonies in a declaration of independence from the British Empire; and

Whereas, the members of the Fourth Provincial Congress were already determined on the course of independence and knew other colonies were likewise so determined; and

Whereas, the said members forbore to take unilaterally an action which they conceived ought to be taken by all thirteen colonies in unison; and

Whereas, by such forbearance they set the example for American unity in defense of American liberty; and

Whereas, such examples led ultimately to the winning of American independence and to the establishment of the oldest surviving constitutional republic in the world; and

Whereas, the examples set at Halifax on April 12, 1776, ought ever to be an inspiration and model for all North Carolinians and Americans; and

Whereas, April 12 of every year has been designated as Halifax Day; and

Whereas, Halifax Day is the occasion on which the State and the nation are annually reminded of the wisdom, courage, and foresight of the Fourth North Carolina Provincial Congress; and

Whereas, the General Assembly of North Carolina is desirous of making known its approbation and support of the purpose of Halifax Day;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extends its warmest wishes and highest respects to those citizens of North Carolina and other states gathered at Halifax to commemorate Halifax Day.

Sec. 2. The General Assembly commends to all North Carolinians and all Americans that they study and emulate the example set at Halifax by the members of the Fourth North Carolina Provincial Congress on April 12, 1776.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

S. R. 499 RESOLUTION 33

A JOINT RESOLUTION PROVIDING FOR JOINT SESSIONS OF THE SENATE AND HOUSE COMMITTEES ON UTILITIES TO SCREEN THE GOVERNOR'S APPOINTEES TO THE UTILITIES COMMISSION, AND PROVIDING FOR A JOINT SESSION OR SESSIONS OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF APPOINTMENTS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10 appointments made by the Governor to fill vacancies in the membership of the North Carolina Utilities Commission are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies on the Utilities Commission exist by reason of the resignation of former members, and other vacancies may or will occur by reason of resignations or expiration of terms; and

Whereas, the Governor has submitted to the presiding officers of the Senate and House of Representatives appointments to fill existing and anticipated vacancies and may submit further appointments to fill additional vacancies;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Senate Committee on Public Utilities and Energy and the House Committee on Public Utilities shall, in joint session, screen the appointees of the Governor for the existing and anticipated vacancies if the committee deems such action appropriate, and shall report their recommendations developed in joint session to a joint session of the Senate and House of Representatives.

Sec. 2. The Senate and House of Representatives shall meet in the House Chamber in joint session or sessions on a date or dates to be fixed jointly by the President of the Senate and the Speaker of the House, to receive the

report of their committees and for the purpose of voting on confirmation of the appointments of the Governor to fill existing and anticipated vacancies if the two houses deem such action appropriate.

Sec. 3. In any joint session of the Senate and House of Representatives for the purposes set out in Section 2 of this resolution, the roll of the Senate shall be called and the vote taken, then the roll of the House shall be called and the vote taken on the question of confirmation of each appointee, after which the vote in each house shall be tabulated and announced. Approval of a majority of each house shall be required for confirmation. Other proceedings in the joint session shall be governed by the Rules of the North Carolina House of Representatives insofar as those rules are applicable.

Sec. 4. In the event of failure of confirmation, the Governor shall be immediately notified and shall be requested to submit replacement appointees within two days after receipt of notification of the failure to confirm.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1977.

H. R. 572 RESOLUTION 34

A JOINT RESOLUTION ENCOURAGING THE COMMISSIONER OF MOTOR VEHICLES AND THE ASSISTANT SECRETARY OF TRANSPORTATION FOR HIGHWAY SAFETY TO SUPPORT AFFIRMATIVE ATTITUDES REGARDING THE UPGRADING OF SAFETY HELMETS FOR MOTORCYCLE RIDERS.

Whereas, the wearing of safety helmets of a type approved by the Commissioner of Motor Vehicles is mandatory for persons riding motorcycles on the highways or public vehicular areas of this State by virtue of North Carolina General Statute 20-140; and

Whereas, the riding of motorcycles for the purpose of transportation and pleasure has increased substantially in the last five years and continues to increase at an astounding rate; and

Whereas, those persons and representatives of some motorcycle clubs who appeared in support of House Bill 7 and Senate Bill 128, repealing the motorcycle safety helmet requirements, made strong contentions that the motorcycle safety helmets approved by the Commissioner of Motor Vehicles and, in fact, available on the market are uncomfortable and to some degree create a disability relative to both vision and hearing; and

Whereas, it is quite clear from a statistical standpoint that the wearing of motorcycle safety helmets does reduce the death rate and degree of injury of motorcycle operators in case of accident;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina encourage the Commissioner of Motor Vehicles and the Assistant Secretary of Transportation for Highway Safety to actively support and assist the operators of motorcycles in the search for and approval of a motorcycle safety helmet which will offer the desirable degree of protection from head and neck injury while eliminating insofar as feasible those problems relative to comfort and vision.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1977.

H. R. 951 RESOLUTION 35

A JOINT RESOLUTION COMMENDING AND CONGRATULATING THE TOWN OF TARBORO UPON ITS SELECTION AS AN "ALL-AMERICA" CITY.

Whereas, the Town of Tarboro has competed with hundreds of cities and towns throughout the United States in the contest sponsored by the National Municipal League to select "All-America" cities for the year 1977; and

Whereas, the Town of Tarboro has been selected as the only North Carolina city, and one of only 10 cities in the United States, to be designated as an "All-America" city for the year 1977; and

Whereas, the Town of Tarboro achieved this national recognition by a community effort, participated in by city officials and employees, civic leaders and organizations, churches, business firms, and the individual citizens of the community, all working together to improve the total quality of life for all of the people of the community, now and in the future, especially in the following particulars:

1. The activities of the East Tarboro Citizens' League which worked persistently and successfully to promote better understanding and communication between blacks and whites in the community, and more active participation by black citizens in the political life of the community; developed better housing, improved educational and job opportunities for black citizens; and upgraded streets, sewer facilities and other public services to the East Tarboro area.
2. The activities of the Edgecombe Historical Society which succeeded in having a 45-block area, representing colonial and Victorian architecture, designated as an historic district under State law; and moved to preserve and restore individual structures within the district, thus enhancing the future by preserving some of the best of the past.
3. The establishment and vigorous promotion of the Town Community Development Program for improving housing and other facilities to make the community a more pleasant and more attractive place in which to live.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly commends the Town of Tarboro for its achievement and for the community spirit and effort which made it possible.

Sec. 2. The General Assembly recognizes the Town of Tarboro as one of the outstanding small cities of the nation and as a valuable local governmental unit of the State of North Carolina.

Sec. 3. The General Assembly expresses its appreciation to the Town of Tarboro for the credit which the city reflects upon itself and the State.

Sec. 4. A copy of this resolution shall be sent to the officials of the Town of Tarboro.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1977.

H. R. 122

RESOLUTION 36

A JOINT RESOLUTION TO COMMEND THE PUBLIC RESPONSE TO THE ENERGY CRISIS, TO EMPHASIZE THE CONTINUING NEED FOR CONSERVING ENERGY AND TO URGE THE PRESIDENT TO DECLARE A NATIONAL EMERGENCY AND TO DEVELOP A LONG-RANGE NATIONAL ENERGY POLICY.

Whereas, the people of North Carolina successfully responded with great grace to the hardships of the severe winter's demands for energy to cope with the domestic and commercial needs of fuels and energy of all types for human comfort and protection of property; and

Whereas, this critical test of our ability to adjust and to make personal sacrifices came at a time when the abundant supply of energy, and particularly economical energy, is fast becoming a commodity of the past, never to return as we have known it; and

Whereas, North Carolina imports ninety-nine percent (99%) of all energy consumed in the State; and

Whereas, historically fifty percent (50%) of all natural gas consumed in North Carolina is used by the commercial and industrial sector of our society; and

Whereas, our energy demands are continually increasing as a result of natural growth, and it is imperative that we avert an even more critical situation than we have just experienced;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That all members of the public of the State of North Carolina are hereby called upon to continue the practice of conserving heating and cooling fuels, for conservation, as well as economical reasons, and always striving for greater energy conservation, and that, in constructing new buildings, the utmost precautions should be taken to achieve the maximum possible level of energy conservation.

Sec. 2. That the North Carolina General Assembly urges the President of the United States to declare a national energy emergency, and give top priority to initiating immediately a comprehensive study and to expend whatever funds may be necessary to develop a comprehensive energy conservation program and alternative energy sources, including, but not limited to, solar energy.

Sec. 3. That a certified copy of this resolution be transmitted by the Secretary of State to the President of the United States.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1977.

H. R. 378 **RESOLUTION 37**

A JOINT RESOLUTION DESIGNATING APRIL 29, 30 AND MAY 1, 1977, AS SHRINE HOSPITAL WEEKEND IN THE STATE OF NORTH CAROLINA.

Whereas, the North Carolina Shriners, together with the national and international chapters of their organization, have dedicated themselves to the provision of medical treatment for crippled and burned children of every race and religion; and

Whereas, the Shriners have established 18 crippled children's hospitals and three burns institutes in North America, to the end that these children may receive the care they need; and

Whereas, nationally more than 170,000 children have benefited from the facilities provided by the Shriners with children from North Carolina being treated at Greenville Crippled Children's Hospital and the Cincinnati Burns Institute; and

Whereas, the North Carolina Shriners of the Oasis Temple, Charlotte; the Amran Temple, Raleigh; and the Sudan Temple, New Bern, will undertake a fund-raising drive for the benefit of these treatment facilities, to be called the Shrine Paper Sale, on April 29, 30 and May 1, 1977;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That this General Assembly hereby proclaim April 29, 30 and May 1, 1977, as Shrine Hospital Weekend in the State of North Carolina.

Sec. 2. That this General Assembly commend the North Carolina Shriners for their admirable efforts to make medical treatment available to crippled and burned children and wish them success in their continued endeavor in this field.

Sec. 3. That a copy of this resolution be forwarded to the Shriners' Oasis Temple, Charlotte; the Amran Temple, Raleigh; and the Sudan Temple, New Bern, North Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1977.

H. R. 969 **RESOLUTION 38**

A JOINT RESOLUTION FIXING TIME AND PLACE FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO NOMINATE CANDIDATES FOR THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, G.S. 116-6 requires that nominations to the Board of Governors of The University of North Carolina be made in joint session; and

Whereas, there are now several places on the Board of Governors which must be filled before July 1, 1977;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Senate and House of Representatives shall meet in joint session on April 26, 1977, at 1:30 p.m., for the purpose of selecting

nominees for election to the Board of Governors of The University of North Carolina.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1977.

S. R. 567 RESOLUTION 39

A JOINT RESOLUTION RECOGNIZING NATIONAL SECRETARIES' WEEK AND HONORING SECRETARIES THROUGHOUT THE STATE.

Whereas, secretaries provide a valuable and necessary service to their employers in all fields of business, industry, education, and government; and

Whereas, the General Assembly is especially aware of the important contribution of its own legislative secretaries; and

Whereas, the week of April 25, 1977, is designated as "Secretaries' Week" and is sponsored by the National Secretaries Association (International) in order to bring recognition to all secretaries, to inform the public of their vital contribution, and to remind secretaries of their professional responsibilities;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly hereby recognizes the benefits that this State receives from its secretaries and clerks and salutes all secretaries for their outstanding services. Appreciation is especially extended to legislative secretaries and clerks for their invaluable service to the State.

Sec. 2. That the citizens of the State of North Carolina are called upon to observe national "Secretaries' Week" and exhibit their own appreciation and gratitude for the work performed by secretaries.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1977.

H. R. 952 RESOLUTION 40

A JOINT RESOLUTION FIXING THE TIME AND PLACE FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF APPOINTMENTS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of G.S. 115-2, appointments made by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, the Governor has submitted to the General Assembly a list of three appointments to membership on the State Board of Education;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Senate and House of Representatives meet in joint session on Tuesday, the 3rd day of May, 1977, at 2:00 p.m., for the purpose of voting on confirmation of the appointments of the Governor to membership on the State Board of Education.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

S. R. 271 **RESOLUTION 41**

A SENATE JOINT RESOLUTION HONORING THE SERVICE AND MEMORY OF GENERAL WILLIAM LEE DAVIDSON.

Whereas, William Lee Davidson was a member of a family prominent in the settlement and growth of western North Carolina; and

Whereas, William Lee Davidson spent nearly his entire life as a resident of Rowan County in that part of the county which later became Iredell where he rendered public service as a district constable, a member of Centre Presbyterian Church, a member of the Committee of Safety, and a captain of the county militia; and

Whereas, William Lee Davidson, devoted to the cause of freedom, rendered patriotic service to his county, State, and nation in the War for American Independence; and

Whereas, William Lee Davidson rose to the rank of Brigadier General in the North Carolina State Militia and a Lieutenant Colonel in the Continental Line; and

Whereas, William Lee Davidson paid the supreme price on February 1, 1781, while leading American resistance to Cornwallis' march at Cowan's Ford on the Catawba River; and

Whereas, the memory of William Lee Davidson's loyalty and service to his State and nation have been preserved by the naming of a county, town, and college in his honor; and

Whereas, the celebration of the American Revolution Bicentennial is an appropriate time to commemorate our heritage;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The service and sacrifice of William Lee Davidson for his State and nation are hereby recognized.

Sec. 2. The Senate expresses its interest in preserving the memory of William Lee Davidson as a valuable part of North Carolina history.

Sec. 3. This resolution shall become effective upon adoption.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

S. R. 452 **RESOLUTION 42**

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF ALEXANDER HAWKINS GRAHAM, FORMER LIEUTENANT GOVERNOR AND FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, A. H. Graham, one of North Carolina's most distinguished citizens and public servants, died at the age of 86 on April 3, 1977; and

Whereas, the General Assembly of North Carolina, in recognition of the deep debt which this State and its people owe to him, desires to honor his life, his service and memory; and

Whereas, A. H. Graham, son of John W. and Maggie F. Graham, was born in August 1890, in Hillsborough, North Carolina, and received his preparatory education at Episcopal High School in Alexandria, Virginia, from 1906 to 1908; graduated from The University of North Carolina in 1912; attended The University of North Carolina Law School from 1912 to 1913; and attended Harvard Law School from 1913 to 1914; and

Whereas, A. H. Graham began practicing law with his father, John W. Graham, in 1914 and then volunteered for the army in 1917; and

Whereas, A. H. Graham served in World War I from May 13, 1917, to July 15, 1919, as commissioned Second Lieutenant at First Officers Training Camp, Fort Oglethorpe, Georgia; was promoted to First Lieutenant and then to Captain; and served overseas with the Eighty-First Division; and

Whereas, A. H. Graham served with great honor and distinction in the North Carolina House of Representatives, representing Orange County for five terms from 1921 to 1929, his last term as Speaker of the House; and

Whereas, A. H. Graham was elected Lieutenant Governor in 1932 under Governor J. C. B. Ehringhaus; and

Whereas, A. H. Graham served as attorney for Orange County and the Town of Hillsborough for nine years and served as Chairman of the State Highway and Public Works Commission from 1945 to 1949 and from 1953 to 1957; and

Whereas, A. H. Graham served his community and his church in many various public and private ways, such as membership in St. Matthew's Episcopal Church, and by his service on the Rocky Mount Mills board of directors for 50 years, and as a member of the North Carolina Bar Associaton and as a trustee of The University of North Carolina; and

Whereas, A. H. Graham is survived by his two sons, A. H. Graham, Jr., of Durham and John W. Graham of Raleigh; seven grandchildren and one great-grandchild; and

Whereas, A. H. Graham devoted his full life to public service. His contributions to his community, to his State and to his nation are symbols of a faithful and loyal career as a citizen and public servant. He shall be long remembered and cherished forever in the history of this State:

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses high regard for the life and service of A. H. Graham and mourns the loss of one of its most beloved and admirable citizens.

Sec. 2. The General Assembly extends to the family of A. H. Graham its deepest sympathy in the loss of their loved one.

Sec. 3. The Secretary of State is directed to send a copy of this resolution to the family of A. H. Graham.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

S. R. 458 RESOLUTION 43

A JOINT RESOLUTION HONORING BILLY RAY CAMERON, PAST COMMANDER OF NORTH CAROLINA VETERANS OF FOREIGN WARS, AND CANDIDATE FOR NATIONAL JUNIOR VICE COMMANDER OF VETERANS OF FOREIGN WARS.

Whereas, Billy Ray Cameron, a native son, has served the State of North Carolina and the United States of America with honor and distinction; and

Whereas, he was born on February 6, 1944, in Harnett County, North Carolina, and attended Benhaven High School. He graduated from Oak Hill Academy and Wingate College; and

Whereas, he is married to Jeanette Gilliam Cameron and has one son, Edward, and one daughter, Leah; and

Whereas, at an early age he joined the United States Marine Corps, and his combat service in the Vietnam conflict has been in the highest tradition of this nation's fighting men. He was wounded twice and received two purple hearts; and

Whereas, his dedication and devotion to duty has earned him many honors and offices including Commander of North Carolina Veterans of Foreign Wars, Commander of Stanley McLeod Veterans of Foreign Wars in Sanford, North Carolina; All State Commander for three years; All American Post Commander in 1973; All American State Commander in 1975 and 1976; North Carolina Veterans Council Commander, 1976-1977; North Carolina Veterans Commission 1977-1981; Disabled Veteran of Year in North Carolina for 1973; Chairman of Mayor's Committee for Jobs for Veterans; and Member of National Security Committee 1976-1977; Triangle Commission on Criminal Justice; and Past President of a North Carolina Civil Defense Association; and

Whereas, he is active in the life of his community and was appointed Sanford-Lee County Civil Preparedness Coordinator in 1971, a post he still holds. He is an active member of the Cameron Hill Presbyterian Church, American Legion, Disabled American Veterans, the Optimist Club, Elks Club and Moose Club; and

Whereas, he is presently a candidate for National Junior Vice Commander of the Veterans of Foreign Wars;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina express sincere appreciation to Billy Ray Cameron for his dedicated service to the State of North Carolina and the United States of America.

Sec. 2. That the members of the General Assembly unanimously wish him every success in his contest for National Junior Vice Commander and

unanimously recommend him to the members of the Veterans of Foreign Wars across this great nation.

Sec. 3. That the members of the General Assembly request this resolution be made a permanent part of the proceedings of the 1977 Session.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

S. R. 519 RESOLUTION 44

A JOINT RESOLUTION COMMENDING THE NEW YORK YANKEES BASEBALL CLUB FOR ITS VISIT TO NORTH CAROLINA.

Whereas, George Steinbrenner did, on Saturday, April 2, 1977, bring to Chapel Hill, North Carolina, his 1976 American League Champion New York Yankees Baseball Club to play The University of North Carolina at Chapel Hill Tar Heels in an exhibition game; and

Whereas, the Yankees traveled from spring training camp in Florida at great expense to their owners in order to honor Tar Heel baseball coach Walter Rabb, who is retiring after 31 seasons, and in order to promote college baseball; and

Whereas, the Yankees were the first major league team to appear in Chapel Hill since 1901; and

Whereas, the Yankees exhibited sportive goodwill and supplied wholesome entertainment allowing fans of all ages, including not only the 9,000 spectators assembled at Boshamer Stadium but also ninety-six percent (96%) of the State's population, through the facilities of the eight stations in The University of North Carolina Television Network, to witness major league baseball being played in North Carolina who otherwise may never have had an opportunity to do so; and

Whereas, it never rains in Chapel Hill (at inopportune moments) thus allowing the Yankess to gain a hard-earned 8-1 victory over the homestanding Tar Heels;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extends to George Steinbrenner and the New York Yankees its thanks and appreciation for the joy they brought to the citizens of our State by appearing and playing an exhibition game in Chapel Hill, and wishes for them a highly successful 1977 major league baseball season.

Sec. 2. That certified copies of this resolution be transmitted by the Secretary of State to George Steinbrenner and the New York Yankees, and to The University of North Carolina at Chapel Hill.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. R. 617 **RESOLUTION 45**

A JOINT RESOLUTION HONORING ARCHIE TRAVERS LANE, SR., A FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY AND DISTINGUISHED CITIZEN.

Whereas, Archie Travers Lane has devoted his lifetime to the service of the cities, the counties and the State of North Carolina; and

Whereas, Archie Travers Lane was born in Perquimans County on September 26, 1900, son of Thomas C. Lane and Minnie Copeland Lane; and

Whereas, Archie Travers Lane graduated from Hertford High School and Eastman Business School in Poughkeepsie, New York; and

Whereas, Archie Travers Lane was a Representative in the North Carolina General Assembly, having served in the 1961, 1963 and 1965 Sessions and having served as Sergeant at Arms in the 1967, 1969, 1971, 1973 and 1975 Sessions; and

Whereas, Archie Travers Lane has been very active in farming and general business throughout his life, having served as a member of the Farm Bureau since its organization and as President of the Farm Bureau from 1942 to 1947; having worked 32 years with the Albemarle Electric Membership Corporation, as Manager for four years, as Director for 28 years, and as Chairman of the Board of Directors for 16 years; and

Whereas, Archie Travers Lane has been a devoted member of the Baptist Church, serving as Church Clerk and as a Deacon; and

Whereas, Archie Travers Lane, one of North Carolina's most distinguished citizens, has worked faithfully for his community and State as a member of the North Carolina Electric Co-operative; as a member of the Executive Board of Tar Heel Electric Association; as first Chairman of the Board of Supervisors for Soil Conservation District; as Chairman of Bear Swamp Drainage Commission since 1940; as a member of the County Board of Commissioners from 1937 to 1942 and 1949 to 1958, as Chairman for eight years; as a Charter and Master Key member of the Hertford Lions Club, as President in 1944 and as District Deputy Governor in 1945; and

Whereas, Archie Travers Lane was married in August of 1924 to Sallie Perry McNider, and has one son, Archie Travers Lane, Jr., and still resides in Hertford, North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Archie Travers Lane, Sr., be honored for his lifelong dedication to the public service of the State of North Carolina to the eternal benefit of the State and its people.

Sec. 2. That North Carolina, acting through its General Assembly, today salutes its distinguished native son, Archie Travers Lane, Sr., with gratitude and appreciation for his service and accomplishments for the State of North Carolina and its people.

Sec. 3. That a certified copy of this resolution be sent to Archie Travers Lane, Sr., and his family in Hertford, North Carolina, by the Secretary of State.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

S. R. 259

RESOLUTION 46

A JOINT RESOLUTION RECOGNIZING GASTON COUNTY AS BASKETBALL CENTER OF NORTH CAROLINA.

Whereas, Hunter Huss High School and Ashbrook High School, two Gastonia 4-A high schools, have just competed for the North Carolina State 4-A High School Basketball Championship on March 12, 1977; and

Whereas, this game, which was won by Hunter Huss High School, represented the first time that two high schools from the same city have met for the 4-A Championship; and

Whereas, a third Gastonia high school, the Gaston Day School, won the North Carolina Independent Schools' Championship in girls' basketball on March 12, 1977; and

Whereas, on March 17, 1977, the Gaston County All-Stars won the State title in a best two-out-of-three match for the championship trophy in the North Carolina Parks and Recreation society basketball tournament;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this august body do honor and pay tribute to these outstanding achievements by Gaston County basketball teams, recognizing Gaston County as basketball center of North Carolina.

Sec. 2. That a copy of this resolution be sent to the coach of each of the aforementioned schools.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.

H. R. 133

RESOLUTION 47

A JOINT RESOLUTION MEMORIALIZING CONGRESS TO CONSIDER THE ADVISABILITY OF MAKING PAYMENTS IN LIEU OF PROPERTY TAXES TO LOCAL UNITS OF GOVERNMENT WITHIN WHICH LARGE AMOUNTS OF FEDERAL LAND ARE LOCATED OR LARGE NUMBERS OF MILITARY PERSONNEL ARE SITUATED.

Whereas, some local units of government contain land owned by the federal government or exempted from taxation by federal law; and

Whereas, such land does not contribute to the tax base of the local unit of government; and

Whereas, when such lands constitute a significant portion of all land within the local unit, the tax base is precluded from experiencing any growth; and

Whereas, such a situation seriously affects the services which can be offered to all residents within the local unit of government without a raise in the tax rate; and

Whereas, some local units of government contain a large military population; and

Whereas, the personal property of the military population is exempt from taxation; and

Whereas, a large portion of this military population lives in mobile homes which are personal property and thereby avoids property taxation almost entirely; and

Whereas, members of such a military population enjoy the benefits of the services provided through property taxes; and

Whereas, this situation places an unfair burden on the other residents of the local unit of government;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Congress of the United States is hereby memorialized to study and consider the advisability and feasibility of making payments in lieu of property taxes by the federal government to local units of government within which large amounts of federal land are located or large numbers of military personnel are situated.

Sec. 2. That the Secretary of State is hereby directed to transmit certified copies of this resolution to each member of Congress, to the President of the United States, and to the presiding officers of the legislatures of the other states.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1977.

H. R. 701 RESOLUTION 48

A JOINT RESOLUTION HONORING MARGARET E. HARPER OF LENOIR FOR HER OUTSTANDING CONTRIBUTIONS TO HER COMMUNITY AND STATE.

Whereas, Margaret E. Harper was born in Lenoir on May 3, 1895, the daughter of George Finley Harper and Frances Cunningham Harper; and

Whereas, Margaret E. Harper graduated from high school in Lenoir in 1912, and attended the Woman's College of the University of North Carolina for two years, and then transferred to the School of the Industrial Arts in Philadelphia in 1914, where she specialized in illustration; and

Whereas, Margaret E. Harper has taken a great interest in the restoration of General William Lenoir's old home, Fort Defiance, in the Yadkin Valley, and has devoted more than 10 years to rescuing Fort Defiance from the menace that beset the once gracious post-Revolutionary War home of General William Lenoir, for whom the City of Lenoir was named; and

Whereas, Margaret E. Harper authored a book entitled "Fort Defiance and the General", telling of General Lenoir, Fort Defiance and life of that era; and

Whereas, Margaret E. Harper has spent numerous hours of labor in supervising the alterations of the old home, in studying the General's papers on the details of the construction of his home as well as his agricultural and business dealings during that period; and

Whereas, Margaret E. Harper has contributed greatly to the preservation of the old home of General William Lenoir and has had a prominent role in the development and restoration of Fort Defiance; and

Whereas, Margaret E. Harper has played an active part in community endeavors in addition to her efforts on behalf of Fort Defiance, and regularly attends Sunday School and Church at the First Presbyterian Church in Lenoir;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Margaret E. Harper be honored for her lifelong dedication to the public service of her community and the State of North Carolina to the eternal benefit of the State and its people.

Sec. 2. That North Carolina, acting through its General Assembly, today salutes its distinguished native daughter, Margaret E. Harper, with gratitude and appreciation for her outstanding service to the State of North Carolina.

Sec. 3. That a certified copy of this resolution be sent to Margaret E. Harper by the Secretary of State.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1977.

H. R. 1106 RESOLUTION 49

A JOINT RESOLUTION CONVENING THE GENERAL ASSEMBLY IN JOINT SESSION IN THE CHAMBER OF THE HOUSE OF REPRESENTATIVES IN THE CAPITOL.

Whereas, the North Carolina State Capitol, completed in 1840, is one of the finest and best preserved examples of a major civic building in the Greek Revival style of architecture and is a National Historic Landmark; and

Whereas, the Capitol housed all of State government until the 1880's, and has been the location and focal point of innumerable historical events up to the present time; and

Whereas, North Carolinians have long revered their State history and treasured the Capitol as a tangible reminder of this heritage; and

Whereas, the Capitol has been preserved and restored as a result of appropriations by the General Assembly in recent years in the amount of nine hundred twenty-five thousand dollars ($925,000) for roof replacement and interior restoration; and

Whereas, The State Capitol Foundation, Inc., is undertaking a project (at no cost to the taxpayers of the State of North Carolina) to repair the 1840 furnishings in the legislative chambers of the Capitol, to provide certain educational materials and programs for visitors to the Capitol, and to purchase antique furnishings necessary to restore the entire building — all at an estimated cost of over two hundred thousand dollars ($200,000); and

Whereas, the week of May 8 - 14, 1977, has been proclaimed National Historic Preservation Week by the President and also proclaimed Historic Preservation Week in North Carolina by the Governor, both in recognition of the need to continue preserving the tangible man-made vestiges of our heritage; and

Whereas, the General Assembly regularly convened in the Capitol through the year 1961 and since that time has occasionally met there;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly convene in joint session in the Chamber of the House of Representatives in the restored Capitol at 8:30 p.m., May 9, 1977, in recognition of Historic Preservation Week and also in recognition of the significant undertaking of The State Capitol Foundation, Inc., as it pursues its goals to furnish the State Capitol back to its 1840 - 1860 appearance.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1977.

S. R. 636 RESOLUTION 50

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF WILLIAM BRYANT AUSTIN, SR., FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY AND DISTINGUISHED CITIZEN.

Whereas, William Bryant Austin, Sr., one of North Carolina's most devoted and beloved citizens, died on Tuesday evening, April 19, 1977, at the age of 85; and

Whereas, William Bryant Austin, Sr., was born at Laurel Springs, in Ashe County on May 3, 1891, son of George Bryant and Alice Woodie Austin; and

Whereas, William Bryant Austin, Sr., attended public schools in Ashe County, received his high school education at Appalachian Training School in Boone from 1910 to 1913, received both his A.B. and L.L.B. degrees from The University of North Carolina in 1919; and

Whereas, William Bryant Austin, Sr., served in the United States Army during the First World War as a Private and Second Lieutenant in the Machine Gun Corps; and

Whereas, William Bryant Austin, Sr., was a Representative and Senator in the North Carolina General Assembly, having served two terms as Ashe County Representative in 1927 and 1941, and one term as Senator in 1939; and

Whereas, William Bryant Austin, Sr., served his community in various public and private ways which included many areas of service, such as member of the North Carolina State Board of Agriculture from 1945 to 1950; member of the North Carolina State Board of Conservation and Development from 1950 to 1961 where he served as a member of the Executive Committee from 1956 to 1961; member of the Board of Directors of the Northwestern Bank where he was Vice-President from 1946 to 1950; director of Blue Ridge Electric Membership Corporation of Lenoir, North Carolina, from 1950 to 1961 where he served as President of that corporation in 1961; member of the Board of Trustees and Executive Committee of the Ashe Memorial Hospital where he served throughout its existence beginning in 1939 and as President for 30 years; and

Whereas, William Bryant Austin, Sr., has worked faithfully for his community and State as chairman of the Ashe County Democratic Executive Committee from 1920 to 1926; member of the State Democratic Advisory Committee for four years; permanent chairman of the State Democratic Convention from 1950; member of the North Carolina Bar Association and the

American Bar Association; member of the Commercial Law League; President of the Ashe County Commercial Club from 1925 to 1926; Mayor of West Jefferson from 1925 to 1926 and from 1935 to 1938; Ashe County Attorney from 1922 to 1928 and from 1936 to 1940; member of Jefferson Lodge 219 and Master from 1925 to 1926; member of Ashe Lodge 671 and Master from 1925 to 1926 and from 1938 to 1940; a Mason; and Director and President of the Jefferson Rotary Club; and

Whereas, William Bryant Austin, Sr., has served his church in many and varied capacities as a Sunday School Teacher in the Jefferson United Methodist Church where he was an active member for more than 50 years; and

Whereas, William Bryant Austin, Sr., is survived by one son, William Bryant Austin, Jr., of Winston-Salem, North Carolina; three daughters, Mrs. Polly Kennedy of Hickory, North Carolina, Mrs. Roberta Widman of Asheville, North Carolina, and Mrs. Mary Gordon Tugman of Laurel Springs, North Carolina; and ten grandchildren; and

Whereas, William Bryant Austin, Sr., devoted his full life to public service. His contributions to his community and to his State are symbols of a faithful and loyal career as a citizen and public servant. He shall long be remembered and cherished forever in the history of this State;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses high regard for the life and service of William Bryant Austin, Sr., and mourns the loss of one of its beloved and admirable citizens.

Sec. 2. The General Assembly of North Carolina extends to the family of William Bryant Austin, Sr., its deepest sympathy in the loss of their loved one.

Sec. 3. The Secretary of State is directed to transmit a certified copy of this resolution to the family of William Bryant Austin, Sr.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of May, 1977.

H. R. 639 RESOLUTION 51

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE PINECREST HIGH SCHOOL GIRLS' BASKETBALL TEAM OF MOORE COUNTY FOR ITS PERFORMANCE AND SPORTSMANSHIP IN WINNING THE STATE 4-A CONFERENCE BASKETBALL CHAMPIONSHIP.

Whereas, the Pinecrest High School girls' basketball team brought honor to Moore County by winning the North Carolina State 4-A Basketball Championship; and

Whereas, each member of the team, Mary K. McNeill, Cheryl Burke, Mary Thompson, Charlita Howe (Manager), Cathi Campbell, Laurie McNeill, Sharon Bradley, Terri Mills, Sandy Douglass, Linda Stubbs, Sharon Williams and Melvarie Watson, did perform her best in the true tradition of good sportsmanship; and

Whereas, the Pinecrest High School girls' basketball team did display great togetherness and team play to win the State 4-A Championship; and

Whereas, the members of the Pinecrest High School girls' basketball team did receive inspiration and instruction from the Head Coach of the team, James Moore, and Assistant Coach, Nancy Matthews; and

Whereas, the team received loyal support and encouragement from fellow students, the administration and faculty members of the Pinecrest High School and from the citizens of Moore County;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the entire basketball team, Head Coach James Moore, Assistant Coach Nancy Matthews, and Principal Phillip McMillan of Pinecrest High School in Moore County, North Carolina, for its outstanding achievements and accomplishments during the 1976-77 basketball season; namely, for being the winner of the State 4-A Basketball Championship.

Sec. 2. That the Secretary of State send a copy of this resolution to each member of the team and the Head Coach, James Moore; the Assistant Coach, Nancy Matthews; the Principal, Phillip McMillan; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. R. 664 RESOLUTION 52

A JOINT RESOLUTION HONORING THE MEMORY OF DENNIS FRANKLIN SPINNETT AND ROBERT GLENN CRAWFORD, TWO THOMASVILLE POLICE OFFICERS, WHO RISKED AND LOST THEIR LIVES IN THE LINE OF DUTY.

Whereas, the General Assembly of North Carolina has been profoundly shocked and greatly grieved by the violent deaths on the 8th of January, 1977, of Dennis Franklin Spinnett and Robert Glenn Crawford, police officers of the City of Thomasville, who were shot and killed in the line of duty; and

Whereas, the General Assembly of North Carolina desires to commemorate the services of Dennis Franklin Spinnett and Robert Glenn Crawford, who devoted the last few years of their lives to protecting the public of the City of Thomasville; and

Whereas, the General Assembly of North Carolina wishes to recognize the contributions made by Dennis Franklin Spinnett and Robert Glenn Crawford and show appreciation for the sacrifices they have both made for the people of this State and the City of Thomasville; and

Whereas, the General Assembly of North Carolina recognizes that with the deaths of Dennis Franklin Spinnett and Robert Glenn Crawford, the citizens of the State of North Carolina and the City of Thomasville have lost two distinguished citizens and devoted police officers, and therefore expresses to their families its sincere sympathy in their loss;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The members of the General Assembly of North Carolina unite in expressing for the State of North Carolina their deep sorrow for the irreparable loss sustained as a result of the deaths of Dennis Franklin Spinnett and Robert Glenn Crawford, who knowingly risked their lives and lost them in an effort to protect the citizens of the City of Thomasville.

Sec. 2. As a token of great respect and high esteem for the memory of Dennis Franklin Spinnett and Robert Glenn Crawford, the General Assembly of North Carolina does hereby extend its deepest sympathy to the members of the families of Dennis Franklin Spinnett and Robert Glenn Crawford.

Sec. 3. This resolution shall be incorporated in the permanent records of this General Assembly as a tribute to the memory of Dennis Franklin Spinnett and Robert Glenn Crawford, and a certified copy thereof shall be transmitted by the Secretary of State to the members of their families.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

H. R. 979 RESOLUTION 53

A JOINT RESOLUTION COMMEMORATING THE ONE HUNDREDTH ANNIVERSARY OF PUBLIC HEALTH IN NORTH CAROLINA.

Whereas, 1977 marks the 100th Anniversary of Public Health in North Carolina; and

Whereas, in the past century the median age of life in our State has increased from 28 years to 68 years; and

Whereas, public health shares with medicine an enviable record of controlling disease and promoting health within our State; and

Whereas, public health has played a major role in conquering most of the communicable diseases which for so long have maimed, crippled and killed; and

Whereas, public health today and tomorrow must devote its particular powers toward building a safer environment, early identification, and treatment of physical defects and chronic diseases among all our people, and education of young and old alike to adopt life styles conducive to long and healthful years;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That this General Assembly does hereby salute the 100th Anniversary of Public Health in North Carolina and the dedicated public health workers of the past and present who have given so much humanitarian service to our State, and further commends to all our citizens increasing knowledge and support of the work of the North Carolina Division of Health Services as it seeks to make new advancements in health.

Sec. 2. That a copy of this resolution be transmitted to the North Carolina Division of Health Services.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

S. R. 632 **RESOLUTION 54**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HENRY E. (FATS) WILLIAMSON.

Whereas, one of New Hanover County's most beloved and dedicated citizens, Henry E. (Fats) Williamson, after a long and industrious career, departed this life in Wilmington on August 23, 1976; and

Whereas, Henry E. Williamson was born in Wilmington, North Carolina, on January 21, 1915, the son of the late Henry Lucian Williamson and Claudia Floyd Williamson; and

Whereas, Henry E. Williamson was appointed to the Wilmington Police Department on July 15, 1940, and resigned November 1, 1940, to serve two and one-half years as Deputy Sheriff and County Patrolman of New Hanover County. He returned to the services of the Police Department on August 16, 1944, as a Private. He was promoted to Sergeant on August 15, 1947, to Lieutenant on October 1, 1950, to Captain on July 1, 1953, to Major on November 28, 1956, to Lieutenant Colonel on March 14, 1962 and Chief of Police on February 1, 1963, where he served until his retirement on January 15, 1975; and

Whereas, Chief Williamson was a graduate of the Southern Police Institute at Louisville, Kentucky, and a member of the first graduating class of the Institute of Government for Police Executive Development; and

Whereas, Chief Williamson served his community and his State with loyalty and devotion, and by his calm, fair and even-handed enforcement of the law, particularly during periods of great stress, earned the admiration and respect of all who knew him. He truly "kept his head while all about him were losing theirs". He was dedicated to the ideal of Theodore Roosevelt who said, "No man is above the law and no man is below it, nor do we ask any man's permission when we require him to obey it"; and

Whereas, Chief Williamson was proud of his profession, and the profession was justifiably proud of him because he exemplified its most noble ideals; and

Whereas, Chief Williamson was a member of Temple Baptist Church, the Wilmington Optimist Club, the Independent Order of Odd Fellows, the International Association of Chiefs of Police, the North Carolina Police Executive Association and the North Carolina Division of the International Association for Identification, and held numerous offices in law enforcement associations; and

Whereas, he possessed that peculiar acumen that enabled him to contribute substantially and effectively to the improvement and betterment of the world around him, enriching the lives of those with whom he was associated and came in contact; and

Whereas, he is survived by his wife, Mrs. Elise Farmer Williamson; his mother, Mrs. Claudia F. Williamson; two sons, Horace Elmer and Donald Kent Williamson and their wives, Naomi White Williamson and Pamela Daniel Williamson; two granddaughters, Susan Lynn Williamson and Ramie Williamson; one brother, M. Everette Williamson; and one sister, Mrs. Frances Peterson;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses its high regard for the life, work and contributions of Henry E. Williamson, and mourns the loss of one of its energetic and beloved citizens.

Sec. 2. The General Assembly extends to the family of Henry E. Williamson its deepest sympathy in the loss of their loved one.

Sec. 3. The Secretary of State is directed to transmit a certified copy of this resolution to the family of Henry E. Williamson.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1977.

S. R. 582 RESOLUTION 55

A JOINT RESOLUTION EXTENDING GOODWILL AND BEST WISHES TO HER MAJESTY, ELIZABETH II, QUEEN OF ENGLAND, IN THE TWENTY-FIFTH YEAR OF HER REIGN.

Whereas, the ties that bind the people of Great Britain and North Carolina date back as far as the charter granted to Sir Walter Raleigh by Queen Elizabeth I in 1584; and

Whereas, the English settlers sent out by Raleigh the following year constituted the first English colony in America; and

Whereas, the very name "Carolina" stems from the Latin rendering of the name of King Charles I; and

Whereas, the charter granted by King Charles II to the Eight Lords Proprietors in 1663 gave a permanent basis to English government and law in North Carolina; and

Whereas, the English common law still lies at the root of all the laws of North Carolina; and

Whereas, the first public library in North Carolina was the gift of an Englishman, Thomas Bray, to the people of the colony in 1704; and

Whereas, the foundations of the sizable gold mining industry in North Carolina prior to 1850 rested on the stout shoulders of natives of Cornwall; and

Whereas, a native of Devonshire, Collett Leventhorpe, volunteered his services to the North Carolina Confederacy and ultimately rose to the rank of brigadier general during the Civil War; and

Whereas, Walter Hines Page of Cary, North Carolina, served as ambassador to the Court of St. James during the period of World War I and was instrumental in persuading American opinion to support our entry into that conflict in support of Great Britain; and

Whereas, the State of North Carolina continues to foster and support vivid reminders of its ties to Great Britain through such institutions as Tryon Palace, the Colonial Records Project, *The Lost Colony*, and The Elizabethan Garden;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the Governor of North Carolina, the General Assembly of North Carolina and the citizens of this State extend their goodwill and best wishes to Her Majesty, Elizabeth II, Queen of England, in the twenty-fifth year of her reign in recognition of the continuing friendship between North Carolina and Her Majesty's Realm.

Sec. 2. That a copy of this resolution be duly certified by the Secretary of State and transmitted by him to Secretary of State Cyrus Vance for transmittal to Queen Elizabeth II.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.

S. R. 696 **RESOLUTION 56**

A JOINT RESOLUTION HONORING JOHN HAYWOOD BAKER, JR.

Whereas, John Haywood Baker, Jr., of Wake County has distinguished himself and the State of North Carolina through his tireless pursuit of excellence in public service as well as athletics; and

Whereas, John Baker was born on June 10, 1935, and in his early life was educated in the Raleigh public school system, and graduated with a B.S. Degree from North Carolina Central University; and

Whereas, while at North Carolina Central University John Baker played football and gained recognition as an all-conference defensive tackle; and

Whereas, John Baker continued his career as an 11-year standout in professional football, playing first for the Los Angeles Rams, then for the Pittsburgh Steelers where he was voted the Most Valuable Player of the National Football League, and finally for the Detroit Lions before retiring in 1969; and

Whereas, John Baker then returned to his native North Carolina to devote himself to full-time public service, including selection as the first black member of the State Parole Board; and

Whereas, John Baker presently serves as an Administrative Staff Aide to United States Senator Robert Morgan; and

Whereas, in recognition of John Baker's gentlemanly and humanitarian character and the great service he has given to North Carolina, Shaw University will on Saturday, May 14, 1977, award him an honorary degree as Doctor of Humane Letters;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina appreciates and pays tribute to John Baker for his personal achievements, public service, and exemplary character, which have brought recognition and esteem both to the man and his native State.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to John Haywood Baker, Jr.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1977.

S. R. 111 **RESOLUTION 57**

A JOINT RESOLUTION URGING THE EMPLOYMENT SECURITY COMMISSION TO ISSUE FORM 1099 INFORMATION RETURNS TO RECIPIENTS OF UNEMPLOYMENT COMPENSATION.

Whereas, the State of North Carolina taxes unemployment compensation benefits; and

Whereas, over 200,000 residents of North Carolina received unemployment benefits for the tax year 1976; and

Whereas, the Individual Income Tax Division of the North Carolina Revenue Department receives a large number of calls requesting information about the taxation of unemployment benefits; and

Whereas, the Revenue Department, by statutory authority (G.S. 105-154), has requested the Employment Security Commission to provide recipients with information about the taxation of unemployment compensation, such information appearing on the Commission's Form 1099; and

Whereas, other State agencies have complied with similar requests from the Revenue Department;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly urges the Employment Security Commission to furnish each recipient of unemployment benefits a Form 1099 which will designate that such benefits are subject to North Carolina individual income tax.

Sec. 2. That the Employment Security Commission comply with future requests of the Revenue Department; provided the Revenue Department has the authority to make such requests.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1977.

H. R. 1211 **RESOLUTION 58**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN BENTON STACY, A DISTINGUISHED NORTH CAROLINIAN.

Whereas, John Benton Stacy, a native of Rockingham County, being the son of John Mullens and Betty Stacy, was born on May 23, 1891, and died on May 1, 1977; and

Whereas, John Benton Stacy was married to Mary Cole in 1922 which marriage resulted in three daughters now named Mrs. Garland Smothers, Mrs. Jess Moore, Jr. and Mrs. C. T. McDonald, Jr., 12 grandchildren and three great grandchildren; and

Whereas, John Benton Stacy was a most dedicated servant of the State and people of North Carolina having served as a North Carolina State Senator for two terms from 1935 through 1938; and

Whereas, John Benton Stacy was head of the State Department of Purchases and Contracts under Governor Clyde Hoey from December 15, 1937, until August 23, 1941; and

Whereas, John Benton Stacy was one of the founders of The University of North Carolina Educational Foundation along with Max Abernathy and John

Umstead, Jr., an organization dedicated to providing scholarships and grants-in-aid for student athletes; and

Whereas, John Benton Stacy further demonstrated his dedication to the people of North Carolina by serving as one of The University of North Carolina Board of Trustees from 1937 to 1953; and

Whereas, John Benton Stacy served his country in the armed forces in the Great War; and

Whereas, John Benton Stacy served as postmaster of Ruffin from 1913 until 1923; and

Whereas, John Benton Stacy served on the Board of Directors of the Bank of Reidsville, now a Wachovia Bank, for some 40 years; and

Whereas, John Benton Stacy was a longtime member and dedicated supporter of the Ruffin United Methodist Church; and

Whereas, John Benton Stacy was a member of the Jefferson Penn Lodge No. 384 of the Masons of the Oasis Shrine Temple and the Elks; and

Whereas, John Benton Stacy was a much respected farmer in Rockingham and Caswell Counties; and

Whereas, the General Assembly desires to honor the memory of John Benton Stacy and express its sympathy to the surviving members of the family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of John Benton Stacy, the State has lost one of its most able and conscientious citizens and servants.

Sec. 2. That the General Assembly does hereby express its gratitude and appreciation for the many years of dedicated public service by John Benton Stacy.

Sec. 3. That the General Assembly expresses its deep and sincere sympathy to the family of John Benton Stacy.

Sec. 4. That a copy of the resolution shall be sent to the family of John Benton Stacy.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1977.

S. R. 629 RESOLUTION 59

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF CARL GRADY CARPENTER, DISTINGUISHED CITIZEN OF NORTH CAROLINA.

Whereas, Carl G. Carpenter, an outstanding businessman, public servant and civic leader, died on February 6, 1977, after a lifetime of service to his community and State; and

Whereas, Carl G. Carpenter was born in Gaston County on January 19, 1896, the son of James S. and Lavinia Carpenter; and

Whereas, Carl G. Carpenter was a graduate of Bessemer City High School and attended King's Business College in Charlotte; and

Whereas, Carl G. Carpenter taught in the public schools of North Carolina for three years and in 1920 became an employee of the Bessemer City Bank, later renamed the First State Bank and Trust Company, where he worked until his retirement in 1969; and

Whereas, Carl G. Carpenter, during his 49 years of service and employment with the bank, worked his way from the position of general handyman to the position of president and helped guide the bank through the depression and during its growth from an institution with assets of only one hundred thousand dollars ($100,000) to an institution with assets of over three million five hundred thousand dollars ($3,500,000) and branch offices in Mount Holly and Dallas; and

Whereas, in addition to his distinguished banking career, Carl G. Carpenter maintained an active interest in State and local government, serving a term in the North Carolina General Assembly after being elected to the House of Representatives in 1929 and serving an unprecedented nine terms as mayor of Bessemer City, which established him as that city's longest-time mayor; and

Whereas, among his other civic activities, Carl G. Carpenter was a charter member and past president of the Lions Club, a charter member of American Legion Post 243 and a Mason; and

Whereas, Carl G. Carpenter was also a faithful and benevolent member of Grace Lutheran Church, always giving unselfishly of his time, his money and himself, responding to deficit budgets and needed church repairs, and serving on the church council and as president of the District Brotherhood; and

Whereas, Carl G. Carpenter is survived by his widow, Mrs. Lena Brown Carpenter, a native of Rowan County, and by a sister, Mrs. Eva Carpenter of Bessemer City; and

Whereas, the General Assembly of North Carolina wishes to express its appreciation to Carl G. Carpenter for his contributions to his community and his State and its sincere sorrow at his death;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That in the death of Carl G. Carpenter, the State of North Carolina has lost an exemplary businessman, a distinguished public servant and a loyal, devoted citizen.

Sec. 2. That the General Assembly does hereby express its appreciation and gratitude for the life and career of and the contributions made by Carl G. Carpenter.

Sec. 3. That the General Assembly extends its sincere sympathy to the family of Carl G. Carpenter.

Sec. 4. That a certified copy of this resolution shall be transmitted by the Secretary of State to the family of Carl G. Carpenter.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1977.

H. R. 865

RESOLUTION 60

A JOINT RESOLUTION COMMENDING THE HARNETT COUNTY HISTORICAL SOCIETY FOR ITS EFFORTS TO FURTHER THE PRESERVATION, RESTORATION, AND MAINTENANCE OF THE HOMEPLACE OF DR. AND MRS. JAMES ARCHIBALD CAMPBELL, WHICH IS SITUATED ON THE GROUNDS OF CAMPBELL COLLEGE IN BUIES CREEK.

Whereas, the homeplace of Dr. and Mrs. James Archibald Campbell represents and symbolizes the very roots of Campbell College and is a monument to many who invested their labors and dedicated their lives to the development of what is now Campbell College; and

Whereas, the J. A. Campbell homeplace served as the residence of three members of the Campbell family who rose to be presidents of outstanding educational institutions; and

Whereas, the architectural design of the J. A. Campbell homeplace is noteworthy and deserving of preservation; and

Whereas, this legislature believes that structures of such historical and academic significance should be preserved and maintained; and

Whereas, it is felt that the vitality and growth of Campbell College is directly related to its willingness to honor its heritage; and

Whereas, the welfare and potential of Campbell College may well be threatened by the failure of the college to be cognizant of its past and the meaning which this structure has to many alumni and residents of the Buies Creek and Harnett County vicinity; and

Whereas, the Harnett County Historical Society is willing to cooperate with and assist Campbell College in any feasible manner in order to preserve and maintain the aforementioned structure;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly does heartily commend and support the Harnett County Historical Society in its efforts to inspire the restoration, preservation, and maintenance of this historically significant structure which is a meaningful symbol of the progress of Campbell College and Harnett County.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

H. R. 1022 **RESOLUTION 61**

A JOINT RESOLUTION URGING THE CONGRESS TO TAKE APPROPRIATE ACTION TO OVERRIDE THE FOOD AND DRUG ADMINISTRATION'S DECISION TO BAN THE USE OF SACCHARIN.

Whereas, the Food and Drug Administration has announced its decision to ban the use of saccharin in foods and beverages; and

Whereas, it appears that the tests upon which the ban was based involved extremely large amounts of saccharin being fed to animals and there is no evidence correlating the test information to the consumption of saccharin by humans; and

Whereas, the banning of saccharin would have far-reaching effects on the 10 million Americans having to control the sugar intake due to diabetes; and

Whereas, saccharin has also proven to be a valuable substitute for sugar in the preparation of meals for the elderly citizens of North Carolina whose choice of foods would be severely reduced if saccharin is not available; and

Whereas, saccharin has also proven to be an effective substitute for sugar in the preparation of certain items such as chewing gum and soft drinks that are especially and heavily consumed by the young citizens of North Carolina, thereby causing the consumption of such items to be far less harmful to the health of the youthful citizens of this State; and

Whereas, the public outcry subsequent to the announcement of the ban has been overwhelmingly against the ban, and has included both lay and professional people;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina urges the Congress of the United States to take appropriate action to override the Food and Drug Administration's decision to ban the use of saccharin in foods and beverages. Such action should include, if necessary, amendments to the commonly known "Delaney amendment".

Sec. 2. That the Secretary of State is directed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the delegation to the Congress of the United States of this State, in order that they may be apprised of the sense of the North Carolina General Assembly.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

H. R. 1178 **RESOLUTION 62**

A JOINT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES TO AMEND H.B. 4287 AND S.B. 717 SO AS TO PERMIT CONTINUED STATE-ADMINISTRATION OF THE FEDERAL MINE AND QUARRY SAFETY PROGRAM.

Whereas, the General Assembly of North Carolina enacted the Mine Safety and Health Act of North Carolina in 1975 and Section 74-24.17 of that act permits State-Federal agreements for State-administration of a Mine and Quarry Safety Program; and

Whereas, the North Carolina Department of Labor has entered into such an agreement with the United States Department of the Interior and this program is now being effectively administered by the North Carolina Department of Labor; and

Whereas, North Carolina has one of the five State-administered Mine and Quarry Safety Programs in the United States; and

Whereas, the provision of a federal system of government mandates that the sovereign states be given the opportunity and responsibility of administering nationwide legislation whenever possible; and

Whereas, H.B. 4287 and S.B. 717 which are currently pending before the United States Congress would transfer the administration of Mine and Quarry Safety Regulations from the United States Department of Interior to the United States Department of Labor; and

Whereas, this pending federal legislation does not include provision for State-Federal agreements permitting State-administration of Mine and Quarry Safety Regulations.

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina General Assembly urge the United States Congress to amend H.B. 4287 and S.B. 717 so as to retain the authority for State-Federal agreements permitting State-administration of Mine and Quarry Safety Regulations.

Sec. 2. That a copy of this resolution be transmitted to the North Carolina Congressional Delegation, to the Honorable F. Ray Marshall, Secretary of the United States Department of Labor and to the Honorable Cecil Andrus, Secretary of the United States Department of the Interior.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1977.

H. R. 1186

RESOLUTION 63

A JOINT RESOLUTION URGING THE NORTH CAROLINA UTILITIES COMMISSION TO INVESTIGATE, STUDY, AND CONSIDER LIFELINE RATES FOR ESSENTIAL USE OF ELECTRICITY AND NATURAL GAS BY RESIDENTIAL USERS.

Whereas, rapidly rising rates for electric and natural gas service have created a great hardship for many elderly and low income persons in the State, making it difficult for them to continue to afford such services in their homes; and

Whereas, electricity and natural gas for residential lighting, cooking, and refrigeration is essential to the health and welfare of the citizens of the State; and

Whereas, conservation of electricity and natural gas should be encouraged at all levels of use;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina Utilities Commission is hereby urged to investigate, study, and consider essential levels for use of electricity by residential customers to provide lighting, cooking and refrigeration in their primary place of residency.

Sec. 2. The Utilities Commission is hereby urged to investigate, study, and consider essential levels for use of natural gas by residential customers to provide cooking and heating in their primary place of residency.

Sec. 3. The Utilities Commission is hereby urged to study and consider whether it is just and reasonable to establish a category of lifeline rates for electricity and natural gas at the levels of use determined pursuant to Sections 1 and 2 of this joint resolution.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

S. R. 874

RESOLUTION 64

A JOINT RESOLUTION HONORING THE MEMORY OF DENNIS WILBERT ALLEN, A FOUR OAKS POLICE OFFICER WHO RISKED AND LOST HIS LIFE IN THE LINE OF DUTY.

Whereas, the General Assembly of North Carolina has been profoundly shocked and greatly grieved by the violent death on the 3rd of June, 1977, of Dennis Wilbert Allen, police officer of the Town of Four Oaks, who was fatally wounded after stopping a suspicious vehicle during the regular performance of his duty; and

Whereas, the General Assembly of North Carolina desires to commemorate the services of Dennis Wilbert Allen, son of Daniel Wilbert Allen and Florence Pauline Allen, who was born in Johnston County, North Carolina, on July 4, 1952; and

Whereas, Dennis Wilbert Allen served in the United States Army during the Vietnam conflict. His many medals and decorations included: Bronze Star with V, Flight Medal, Combat Infantry Badge, Presidential Unit Citations, National Defense, Army Commendation; and was honorably discharged as

Sergeant E-5 in November, 1972. At the time of his death he was a member of the National Guard; and

Whereas, Dennis Wilbert Allen is survived by his wife, Debra Jane Benson Allen, and one son, Daniel Lewis Allen; and

Whereas, the General Assembly of North Carolina wishes to recognize the contributions made by Dennis Wilbert Allen and show appreciation for the sacrifices he has made for the people of this State and the Town of Four Oaks;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The members of the General Assembly of North Carolina unite in expressing for the State of North Carolina their deep sorrow for the irreparable loss sustained as a result of the death of Dennis Wilbert Allen, who knowingly risked his life and lost it in an effort to protect the citizens of the Town of Four Oaks.

Sec. 2. As a token of great respect and high esteem for the memory of Dennis Wilbert Allen, the General Assembly of North Carolina does hereby extend its deepest sympathy to the members of the family of Dennis Wilbert Allen.

Sec. 3. This resolution shall be incorporated in the permanent records of this General Assembly as a tribute to the memory of Dennis Wilbert Allen, and a certified copy thereof shall be transmitted by the Secretary of State to the members of his family.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1977.

S. R. 633 RESOLUTION 65

A JOINT RESOLUTION COMMENDING PRESIDENT CARTER FOR HIS EFFORTS TO ESTABLISH A SOUND NATIONAL ENERGY POLICY AND URGING SPEEDY CONGRESSIONAL CONSIDERATION OF HIS PROPOSALS.

Whereas, President Carter on April 20 addressed Congress in joint session and proposed a national energy policy; and

Whereas, President Carter called the energy problem the "greatest domestic challenge our nation will face in our lifetime"; and

Whereas, the President asked Congress to enact legislation which would increase the federal gasoline tax unless consumption is reduced, place a graduated tax on "gas-guzzling" large automobiles and provide a tax rebate for those vehicles which are energy efficient, encourage better insulation and other energy-conservation measures for homes and office buildings, set efficiency standards for household appliances, alter the present rate structure which gives large industrial users better utility prices than residential customers, offer users "peak-load pricing" (lower charges when demand is small; higher charges at times of peak demand), grant a tax credit to industries which undertake energy conservation measures, require industries to shift from burning oil and gas to coal, and provide tax incentives to encourage the installation of solar power units for heating and cooling; and

Whereas, the North Carolina General Assembly has shown its commitment to energy conservation by its actions during the last several sessions; and

Whereas, those actions of the General Assembly include enactment of the Energy Policy Act of 1975 which created a new Energy Policy Council responsible for developing State energy conservation and management plans, an energy research and development program, and procedures for declaring a State energy crisis and adopting emergency controls on energy allocation; and

Whereas, the actions of the General Assembly also include enactment in 1975 of legislation requiring the Utilities Commission to analyze the State's long-term electric generating facility needs, to adopt an electricity expansion plan and to consider that plan before approving new construction of power plants, and declaring State policy to be the efficient use of energy resources; and

Whereas, the General Assembly has also directed the Utilities Commission to consider the adoption of peak-load pricing by which customers, both residential and industrial, will be charged for using electricity at times of peak demand and rewarded for refraining from use at those times; and

Whereas, other legislation already enacted by the General Assembly includes acts to expand the Utilities Commission and allow it to sit in panels in order to expedite rate proceedings, to eliminate automatic fuel-adjustment charges in utility bills, to have the State Building Code Council incorporate energy-conservation standards in the State Building Code, to require State agencies to conduct energy-consumption analysis of construction projects, to allow city electric systems to jointly own and operate municipal power plants, to provide funds for research and development of solar heating and cooling systems, and to create a legislative Utility Review Committee to study the operations of utilities companies and the State's regulation of them; and

Whereas, the present General Assembly has before it legislation to promote the conservation of energy by having the Utilities Commission study whether utilities companies should be required to assist in financing insulation of homes and apartments, by prohibiting utility service to new buildings unless they comply with insulation requirements of the State Building Code, by setting conservation standards for new buildings, by providing income tax credits for the purchase of energy-conservation items such as insulation and solar heating and cooling systems, by allowing buildings with solar heating and cooling systems to be taxed the same as conventional buildings, and by urging energy conservation of North Carolina's citizens;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly commends the leadership of President Carter in proposing a national policy to meet the grave challenge of an energy shortage.

Sec. 2. The General Assembly urges speedy Congressional consideration of President Carter's energy-conservation proposals.

Sec. 3. A copy of this resolution shall be sent to President Carter and to each member of North Carolina's Congressional delegation.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

S. R. 331 **RESOLUTION 66**

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE WAKE FOREST-ROLESVILLE HIGH SCHOOL BOYS' AND GIRLS' BASKETBALL TEAMS FOR THEIR EXCELLENT PERFORMANCES DURING THE 1976-77 BASKETBALL SEASON.

Whereas, the Wake Forest-Rolesville High School boys' basketball team brought honor to Wake County by winning the North Carolina State 3-A Basketball Championship; and

Whereas, the Wake Forest-Rolesville girls' basketball team brought honor to Wake County by winning 19 regular season games without a loss; and

Whereas, each member of the two teams, Gregory Burnett, Charles Byrne, Andy Harris, Kenny Harris, Greg Holman, Tim Hughes, Larry Kennedy, Elvin McNeill, Donald Moss, Kevin Howell, Steve Smith, Earl Walton, J. Bryant Wiggins, Francine Watkins, Brenda Gill, Vanessa Wilkerson, Annie Jones, Vivian Perry, Donna Ray, Laverne Hopkins, Judy Cooke, Cindy Pleasants, Irene McCants, Wilma J. Wilkerson, Debbie Davis, Sheryl Wiggins and Christine Young did perform their best in the true tradition of good sportsmanship; and

Whereas, the Wake Forest-Rolesville High School boys' and girls' basketball teams did display great team play throughout the entire 1976-77 basketball season; and

Whereas, the members of the Wake Forest-Rolesville boys' and girls' basketball teams did receive inspiration and instruction from Coach Larry C. Lindsey, the boys' coach and Coach Ronald Daniel, the girls' coach; and

Whereas, both teams have played an outstanding season under the leadership of their captains; and

Whereas, the two teams received loyal support and encouragement from the members of the cheerleading squads, the team managers, the administration, fellow students and faculty members of the Wake Forest-Rolesville High School and from the citizens of Wake County;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the Wake Forest-Rolesville High School boys' and girls' basketball teams, Coach Larry C. Lindsey and Coach Ronald Daniel, for their outstanding achievements and accomplishments during the 1976-77 basketball season.

Sec. 2. That the Secretary of State send a copy of this resolution to each member of both teams, to the boys' Head Coach, Larry C. Lindsey, to the girls' Head Coach, Ronald Daniel, and to the Principal, C. W. Fisher; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1977.

H. R. 1447 **RESOLUTION 67**

A JOINT RESOLUTION CONGRATULATING AMERICAN DREW, INC., OF NORTH WILKESBORO, A SPERRY AND HUTCHINSON COMPANY, ON ITS 50TH ANNIVERSARY.

Whereas, American Drew, a company deeply imbedded in the history of Wilkes County, has developed into one of the nation's most respected and leading manufacturers of wood bedroom, dining room and functional furniture; and

Whereas, American Drew has increased its family of employees from 25 in 1927 when the firm was created as the American Furniture Company, to 1,550 full-time employees in North Wilkesboro, and over 50 field representatives throughout the United States today; and

Whereas, the Drew Furniture Company, before its merger with American Furniture Company, also contributed significantly to the economic progress of Wilkes County; and

Whereas, officials and employees of American Drew, throughout those 50 years, have unselfishly contributed of their personal time and efforts to the betterment of the community; and

Whereas, "The Tree of Promise", the company emblem of American Drew, signifies skilled innovations in furniture manufacturing and superior workmanship in products distributed throughout the United States from over 4,000 retail firms;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly commends, congratulates and expresses its deep sense of appreciation to American Drew, Inc., a Sperry and Hutchinson Company, for its long-time contribution to the economy and well being of North Carolina.

Sec. 2. That a copy of this resolution be duly certified by the Secretary of State and transmitted to the American Drew, Inc., of North Wilkesboro.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

H. R. 1253 **RESOLUTION 68**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DICK O'NEAL, A FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, Dick O'Neal, son of Lealie and Irene Sadler O'Neal, was born on July 15, 1922, in New Holland, North Carolina, and died on December 8, 1976, after a long and illustrious career; and

Whereas, Dick O'Neal is survived by his widow Daphne Duke O'Neal and their two sons, Richard Duke O'Neal and Edward Alan O'Neal; and

Whereas, Dick O'Neal's career of service to North Carolina and this nation was one of long duration and included many areas of distinction; and

Whereas, Dick O'Neal worked unselfishly for his nation and community, having served in the Navy during World War II; and

Whereas, Dick O'Neal served as a Shriner and as a member of the Sudan Temple and was a member of the National Fisheries Institution; and

Whereas, Dick O'Neal was named Tar Heel of the Week in November 1955; and

Whereas, Dick O'Neal served with honor and distinction in the North Carolina House of Representatives, representing Hyde County in the Extra Session of 1956 and in the Regular Sessions of 1957 and 1959; and

Whereas, Dick O'Neal loved the people and land of Hyde County and promoted the betterment of the area by being actively involved in community projects; and

Whereas, Dick O'Neal, gave untiring service and unsullied friendship to the many North Carolinians who visited Hyde County during the years that Lake Mattamuskeet was a center for wildlife and waterfowl; and

Whereas, Dick O'Neal continued to work behind the scenes for the benefit of all of the people of his area, his activities having been considered instrumental in obtaining the Swan Quarter ferry; and

Whereas, in the passing of Dick O'Neal, North Carolina and Hyde County have lost one of their most beloved and respected citizens;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly honors the memory of Dick O'Neal and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to the family of Dick O'Neal.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

S. R. 826 RESOLUTION 69

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY A PROPOSED SCHOOL HEALTH EDUCATION PROJECT: THE "HEED" PROJECT.

Whereas, the HEED Project (*He*alth and *Ed*ucation United - fostered by Blue Cross and Blue Shield of North Carolina) has as its goal to present health information to children throughout their school years (K-12) in a manner enabling each child to assume subsequently the major responsibility for maintaining health and preventing disease; and

Whereas, the HEED Project promotes health subjects ranging from teeth care to emergency care, but emphasis is placed on subjects such as safety, nutrition, and drug abuse; and

Whereas, concerning safety, auto accidents are the single greatest killer and crippler from age 2 1/2 to 35 years, and early education in use of seat-shoulder restraints can save thousands of lives and prevent millions of injuries each year in the United States; and

Whereas, concerning nutrition, we must displace the notion that "fat babies are healthy babies" with the truth; and further, we must prevent the American nibble-mania of excess calories, especially of the high carbohydrates and fats; and we must recognize not only that obese children may have

developmental and personality problems, but also that they set the stage for even more serious problems such as diabetes, heart disease and strokes; and

Whereas, concerning excessive use or abuse of alcohol, smoking and drugs, these abuses are linked with major medical problems such as heart disease, cancer, cirrhosis and ulcers; and in addition, they are a major factor in accelerating our nation's numbers and varieties of social disorders; and these same abuses coupled with a poorly disciplined society have provoked our venereal disease epidemic; and

Whereas, the HEED Project provides for teams of selected educators, laymen, nurses and physicians with special emphasis on community resources to develop "teaching kits" containing a prepared narrative tapes and slides for a series of health facts; and one health fact is to be presented each week to children, beginning with kindergarten; and teacher presentation of these health facts does not require preliminary preparation other than familiarization with the material in the teaching kits; and use of the kits is a method of education not requiring hiring of large numbers of health educators; and

Whereas, a series of meetings concerning the HEED Project was conducted in 1976 and they included superintendents of education, staff of several divisions of the North Carolina State Department of Public Instruction, the Regional Director of the Southwest Regional Education Center (SWREC), a university-based educator, public and private health nurses, and university-based and private physicians; and

Whereas, as a result of some of these meetings, Cabarrus County Schools under Superintendent Jay Robinson and Concord City Schools under Superintendent William Irvin plan to implement Project HEED beginning in the fall of 1977; and

Whereas, a grant proposal for Project HEED has been submitted by Superintendent Robinson for Title IV funds to support the three-year development, application, and evaluation of this method beginning with the K-3 component; and

Whereas, a detailed discussion of this project was conducted in March of 1977 with Doctor Craig Phillips' staff, Doctor Jerome Melton presiding, and a written statement is forthcoming providing both their acceptance of the concept and firm backing of Project HEED;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission, as structured under G.S. 120-30.10 et seq., is directed to study the HEED Project as described in the whereas clauses of this resolution.

Sec. 2. The commission shall produce a report on its study, including recommendation on desirable State participation in the HEED Project.

Sec. 3. The commission shall report to the 1979 General Assembly.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.

H. R. 811 **RESOLUTION 70**

A JOINT RESOLUTION CONTINUING THE CRIMINAL CODE COMMISSION.

Whereas, the General Assembly has given legislative sanction to the creation and continuation of the Criminal Code Commission in Resolution 24 of the 1971 Session, Resolution 26 of the 1973 Session, and Resolution 59 of the 1975 Session; and

Whereas, the commission membership has diligently pursued its assigned tasks of review and revision of the criminal law and procedure of North Carolina; and

Whereas, the Criminal Code Commission prepared legislation for consideration by the 1973 Session of the General Assembly dealing with pretrial procedure, which legislation was considered and enacted in part; and

Whereas, the Criminal Code Commission had originally planned to finalize its consideration of criminal procedure and a complete review of the substantive criminal law of North Carolina in time for submission to the General Assembly in its 1975 Session but found the time too limited for completion of its task for consideration by the 1975 Session of the General Assembly; and

Whereas, the Criminal Code Commission has just presented its proposed legislation on trial stage and appellate procedure to the 1977 General Assembly, and is still working on substantive criminal law proposals for submission to the 1979 General Assembly; and

Whereas, the magnitude of the tasks set before the commission and the importance of its work dictate that the commission be extended through the 1979 Session of the General Assembly;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Criminal Code Commission created by Resolution 24 of the 1971 Session of the General Assembly is hereby extended until July 1, 1979, or until the 1979 Session of the General Assembly adjourns sine die, whichever date is later.

Sec. 2. The powers and duties of the commission are expressly continued in effect including the responsibility to prepare a biennial report to the Attorney General for transmission to the members of the General Assembly.

Sec. 3. The original members of the commission or their successors in office shall serve until termination of the commission. The commission membership shall be continued at 30 members.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

H. R. 1368

RESOLUTION 71

A JOINT RESOLUTION URGING THE FEDERAL FOOD AND DRUG ADMINISTRATION TO ALLOW CERTAIN SPECIALLY TRAINED MEDICAL TECHNICIANS TO CARRY EMERGENCY INSECT STING KITS AND TO ADMINISTER EPINEPHRINE.

Whereas, it is estimated that approximately one million Americans are allergic to insect stings or bites; and

Whereas, approximately one third of these allergic people are unaware that they are allergic to insect stings or bites until they suffer a reaction which is often severe; thus, many allergic people will not have an insect sting kit in their possession; and

Whereas, many, if not most, fatal anaphylactic reactions to insect stings or bites occur far from medical aid and the number of deaths is increasing swiftly; and

Whereas, the Federal Food, Drug and Cosmetic Act now requires that the drug with which this type of allergic reaction is treated, epinephrine, be administered only upon a doctor's prescription; and

Whereas, many fatal reactions to insect stings or bites could be prevented by prompt treatment with epinephrine; and

Whereas, rescue squads and other emergency personnel could be trained to administer epinephrine except that the drug would not be available because of the requirement that it be prescribed by a doctor;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Federal Food and Drug Administration is hereby requested to amend the Federal Food, Drug and Cosmetic Act to allow certain specially trained medical technicians, such as rescue squad personnel to carry emergency insect sting kits containing injectable epinephrine and to administer this drug when confronted by an anaphylactic reaction to an insect bite or sting.

Sec. 2. A copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the Federal Food and Drug Administration of the Department of Health, Education and Welfare.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1977.

S. R. 599

RESOLUTION 72

A JOINT RESOLUTION URGING THE GOVERNMENT OF THE UNITED STATES TO MAINTAIN ITS DIPLOMATIC RELATIONS AND THE MUTUAL DEFENSE TREATY WITH THE REPUBLIC OF CHINA; AND FOR OTHER PURPOSES.

Whereas, the Republic of China was a founding member of the United Nations and has always been a law abiding member of the community of nations; and

Whereas, the people of the Republic of China have built a successful, prosperous, free economy out of the ashes of a half century of revolution, invasion and civil war and now serve as an important trading partner of the American people; and

Whereas, the Republic of China is of great strategic importance in the defense of East Asia and the Pacific and has always utilized its military power in the interests of the free world; and

Whereas, the people of the Republic of China have been among the most trusted friends and allies of the people of the United States since the founding of the Chinese Republic in 1912; and

Whereas, President Jimmy Carter has repeatedly stated that he will pursue an open and just foreign policy, based on morality; and

Whereas, President Jimmy Carter has also repeatedly stated that he will not compromise the freedom and security of the people of the Republic of China and will stand by the United States' commitments to that country;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this body strongly endorses the positions of President Jimmy Carter as stated above.

Sec. 2. That the Government of the United States and the Congress are hereby strongly urged to maintain their diplomatic relations and the Mutual Defense Treaty with the Republic of China.

Sec. 3. That the Secretary of State is hereby authorized and directed to transmit an appropriate copy of this resolution to the President and the Secretary of State of the United States of America, the members of Congress from the State of North Carolina and the Ambassador of the Republic of China to the United States.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.

H. R. 1459 RESOLUTION 73

A JOINT RESOLUTION REQUESTING THE STATE BOARD OF EDUCATION TO ENCOURAGE LOCAL SCHOOL ADMINISTRATIVE UNITS TO PROVIDE FIRST AID TRAINING FOR SCHOOL PERSONNEL AND STUDENTS IN THE HIGH SCHOOLS.

Whereas, the majority of North Carolina schools have no medical personnel on duty to administer first aid to students or to school personnel; and

Whereas, serious illness and injuries frequently occur requiring prompt decisions and emergency treatment crucial to saving lives or preventing serious consequences; and

Whereas, knowledge of first aid and lifesaving skills is essential to safety and protection in the home, as well as in the school; and

Whereas, the State Board of Education provides for in-service training for teachers in certain subjects; and

Whereas, the North Carolina high school curriculum provides for courses in health and physical education but not in first aid and emergency lifesaving skills;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly requests the State Board of Education to encourage local school administrative units to include in the high school curriculum training in first aid and emergency lifesaving skills.

Sec. 2. That the General Assembly requests the State Board of Education to encourage local school administrative units to offer in-service training for school personnel in first aid and emergency lifesaving skills, including but not limited to, first aid treatment in instances of drug overdose and in instances of emergencies related to pregnancies.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.

H. R. 563 RESOLUTION 74

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROPERTY TAX ON BUSINESS INVENTORIES.

Whereas, the economic well-being of business enterprises in North Carolina is important to the economic health of the State; and

Whereas, the existing tax on business inventories may be placing North Carolina businesses, and particularly small businesses, at a disadvantage when competing with out-of-state firms; and

Whereas, studies of the tax system of North Carolina have tended to be so broad in scope that the special features, problems and burdens of the inventory tax have not received special attention; and

Whereas, it is desirable that an in-depth study of the inventory tax be made in order to determine its relative benefits and burdens and to evaluate possible corrective action;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is directed to make a study of the inventory tax on business enterprises, to evaluate its relative benefits and detriments to the State, and to make recommendations as to modifications, alternatives, or both, as the commission may find to be desirable. The study shall be conducted in connection with the commission's examination of North Carolina's revenue laws as directed by other legislation during the session (S. B. 578).

Sec. 2. The Legislative Research Commission shall report the results of its study to the General Assembly not later than February 15, 1978.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1977.

S. R. 915 **RESOLUTION 75**

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT OF THE 1977 GENERAL ASSEMBLY ON JULY 1, 1977, AT 6:00 P.M., TO RECONVENE FOR A SECOND SESSION IN 1978 FOR REVIEW OF THE BUDGET FOR FISCAL YEAR 1978-1979 AND FOR CONSIDERATION OF CERTAIN OTHER BILLS.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. On Friday, July 1, 1977, at 6:00 p.m., both the Senate and the House of Representatives shall stand adjourned, to meet again on Wednesday, May 31, 1978, at 12:00 noon.

Sec. 2. When the Senate and House of Representatives reconvene pursuant to Section 1 of this resolution, they shall consider bills directly affecting the State budget for fiscal year 1978-1979, and they shall consider bills introduced in 1977, and favorably acted upon in the house in which introduced, and not disposed of by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading in the other house; provided, that after ratification of a joint resolution passed by a two-thirds majority in each house, the House of Representatives and Senate may also consider any matters authorized by that resolution.

Sec. 3. In addition to the matters described in Section 2 of this resolution, the House of Representatives and Senate when they reconvene in 1978, may consider bills implementing the reports of study commissions which have been directed to make final reports and recommendations to the 1977 General Assembly, Second Session, 1978.

Sec. 4. Upon authorization of the presiding officer of either house, the appropriate committees are authorized to meet in the interim to review the budget for fiscal year 1978-1979, as passed by the 1977 General Assembly, First Session 1977; to review other matters of appropriations, finance and the general economy; and to prepare a report on these matters, including a revised budget for 1978-1979, if necessary, for delivery to the Senate and House of Representatives on the convening date of the 1977 General Assembly, Second Session, 1978.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. R. 752 **RESOLUTION 76**

A JOINT RESOLUTION EXPRESSING THE INTENT OF THE GENERAL ASSEMBLY TO ALLOW THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO ACCEPT FEDERAL FUNDS FOR THE PLANNING AND DEVELOPMENT OF A STATE PARK ON THE FRENCH BROAD RIVER.

Whereas, the French Broad River Basin is a unique and valuable resource of the State of North Carolina in that the headwaters of the French Broad River are wholly contained within Buncombe, Henderson, Madison and Transylvania Counties and services the recreational and water supply needs of both western North Carolina and eastern Tennessee, and in that the uses and development of the French Broad River Basin within the State of North

Carolina will affect both the citizens of North Carolina and the citizens of the State of Tennessee; and

Whereas, the Land-of-Sky Regional Council, serving Buncombe, Henderson, Madison and Transylvania Counties, and the county and municipal governments of this region have initiated a comprehensive study of the economic, environmental, recreational and agricultural needs of the French Broad River Basin; and

Whereas, the General Assembly desires that the Department of Natural and Economic Resources should provide all possible assistance to and cooperation with the Land-of-Sky Council for the continued planning and development of the French Broad River Development Program, to the end that a viable local-state-federal effort be organized for the implementation of the French Broad River Development Program; and

Whereas, the General Assembly recognizes that the development of a State park on the French Broad river is an essential element of the French Broad River Development Program;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Department of Natural and Economic Resources is hereby requested to provide technical and planning assistance to the Land-of-Sky Regional Council for the completion of its study of the French Broad River Basin and to develop plans for a State park to be located on the French Broad River.

Sec. 2. The Department of Natural and Economic Resources is hereby authorized to accept any and all federal monies and grants which may be appropriated for the purpose of developing a State park on the French Broad River or for the purpose of further study of the French Broad River Basin. The Department of Natural and Economic Resources is further authorized to accept funds from any source, public or private, which may be used for this purpose.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.

S. R. 652 RESOLUTION 77

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE FEASIBILITY OF ESTABLISHING WITHIN NORTH CAROLINA A BICYCLE REGISTRATION OR SIMILAR PROGRAM TO PROVIDE THE CITIZENS OF THE STATE WITH A DETERRENT TO BICYCLE THEFT, A MEANS FOR DETERMINING OWNERSHIP OF BICYCLES, AND IDENTIFICATION OF INJURED BICYCLISTS.

Whereas, bicycles have outsold automobiles nationally for each of the last five years, and increasing numbers of North Carolinians are utilizing the bicycle for transportation and recreation; and

Whereas, bicycle thefts are a growing problem for local law enforcement agencies and an economic burden for victimized bicycle owners; and

Whereas, many municipalities throughout North Carolina have initiated bicycle registration programs and witnessed only limited success due to their

incremental locations, inconsistent identification systems, and inability to share information; and

Whereas, juvenile bicyclists do not carry identification and many adult bicyclists will not carry identification when they ride; and

Whereas, bicycle accidents in North Carolina have increased each of the last three years, while automobile accidents were decreasing; and

Whereas, law enforcement officials have difficulty identifying injured bicyclists, due to the absence of any consistent identification requirements;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is directed to study the feasibility of establishing within North Carolina a bicycle registration or similar program to serve the people of this State and their visiting guests.

Sec. 2. The commission's study may include, but need not be limited to, the following:

(1) investigation of existing or proposed registration or similar programs conducted by local governments within the State to ascertain their effectiveness and determine how they could be best merged;

(2) consideration of existing or proposed registration or similar programs conducted by other state governments or private business to evaluate their effectiveness as well as determine how the State should proceed if a program is pursued;

(3) computation of existing statistics on the State's bicycle sales, bicycle theft problem, and bicycle accident data to support the findings of the study;

(4) preparation of one or more alternative systems of bicycle registration or similar programs which would effectively meet the intended purposes of deterring bicycle thefts, increasing the return rate of recovered stolen bicycles, and aiding in the expedient identification of bicyclists injured in traffic accidents; while not generating an economic burden for the State's citizens greater than the benefits derived;

(5) estimates of staff, software, and hardware costs of the various alternatives presented, and recommendations on the different methods of financing these programs, if one were to be implemented for the benefit of all of the State's citizens.

Sec. 3. This resolution shall become effective upon ratification and the results of the study shall be reported back to the General Assembly for its 1979 Session.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 879 **RESOLUTION 78**

A JOINT RESOLUTION ESTABLISHING A SPECIAL INTERIM JOINT COMMITTEE TO STUDY THE RULES OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. There is established the Special Interim Joint Committee to study the Rules of the General Assembly of North Carolina.

Sec. 2. The committee members shall be appointed as follows: three members of the House of Representatives by the Speaker of the House, and three members of the Senate by the President Pro Tempore of the Senate.

Sec. 3. The committee shall study the current issues related to changing the rules of either House of the General Assembly, including the possibility of beginning a system with some Joint Rules; and the committee shall propose drafts of new rules if appropriate.

Sec. 4. The committee shall function as a Joint Committee of the General Assembly and shall have authority under the appropriate provisions of Article 5 and Article 5A of G.S. Chapter 120.

Sec. 5. The committee shall report to the 1979 General Assembly.

Sec. 6. This resolution shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 894 **RESOLUTION 79**

A JOINT RESOLUTION HONORING THE MEMBERS OF CHRYSALIS AND THE RALEIGH WOMAN'S CLUB FOR THEIR OUTSTANDING ACCOMPLISHMENT IN WINNING THE NATIONAL AMERICA-THE-BEAUTIFUL-FOUNDATION AWARD.

Whereas, the members of the Chrysalis Women's Club at the North Carolina Correctional Center for Women did win the America-the-Beautiful-Foundation Award from the America the Beautiful Foundation for their efforts to restore and preserve beauty, especially in blighted areas; and

Whereas, the members of Chrysalis personally raised three hundred dollars ($300.00) through club projects at the Center; and

Whereas, Suzy Buttles, a design student at North Carolina State University, drew plans for the garden which included benches, round cement tables, trees and flowers; and

Whereas, the club members, under the sponsorship of the Woman's Club of Raleigh, with chairman Mary M. Bode and president Martha Mendenhall, undertook lessons in horticulture and bricklaying in order to make the plans a reality; and

Whereas, Launa H. Greene, president of the prison's Chrysalis Women's Club, as well as Peggy Lowery, Karen Riggs, Kathy Smith, Kathy Stokes, and Celeste Van Landingham laid over 30,000 bricks in the pavilion, painted furniture, and planted flowers and trees; and

Whereas, the North Carolina Bicentennial Committee, the Wake County Bicentennial Commission, Wayside Nurseries, Apex Nurseries, and IBM each contributed money, materials, or guidance for the project; and

Whereas, Ward Tile and Terazzo Company of Raleigh donated ceramic tiles; and Deercrete, a Raleigh concrete company, helped with construction of the park tables; and

Whereas, Sanford Brick and Tile Company donated over 30,000 bricks; and

Whereas, numerous other interested citizens and businesses offered assistance; and

Whereas, this spirit of cooperation by citizens and extraordinary effort and concern by these women at the North Carolina Correctional Center for Women helped to improve their surroundings:

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this august body do honor and pay tribute to these outstanding achievements and accomplishments by the members of the Chrysalis Women's Club and the Raleigh Woman's Club and congratulate them on their national achievement.

Sec. 2. That a certified copy of this resolution be sent by the Secretary of State to the above-named persons of the Chrysalis Club, the Raleigh Woman's Club; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 907 RESOLUTION 80

A JOINT RESOLUTION DIRECTING THE STATE COORDINATING COUNCIL TO STUDY THE COST OF REDUCING INFANT MORTALITY IN NORTH CAROLINA.

Whereas, the national rate of infant mortality is 15.1 deaths per 1,000 live births among children under one year old; and

Whereas, the rate of infant mortality in North Carolina is 19.2 deaths per 1,000 live births among children under one year old; and

Whereas, the rate of infant mortality in North Carolina is among the worst in the nation;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The State Health Coordinating Council of the Department of Human Resources is hereby directed to study the cost and means of reducing infant mortality in this State, and to report on its findings to the 1979 Session of the General Assembly, on or before February 1, 1979.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1523 **RESOLUTION 81**

A JOINT RESOLUTION URGING CONGRESS TO ENACT ENABLING LEGISLATION LOOKING TOWARD THE PLANNING AND FINANCING OF A WHITE HOUSE CONFERENCE ON AGING IN 1980 OR 1981.

Whereas, in 1960 and again in 1971, there was held a White House Conference on aging at which substantial steps were made in assessing the needs of older people throughout the nation and in meeting those needs; and

Whereas, the fastest growing segment of the population is represented by the aging group (65 and older); and

Whereas, in order to do effective planning for their increasing numbers through the year 2000, we need a conference in 1980 or 1981 to build on the experiences of the previous two conferences so that the needs of this group will be recognized and planned for in advance; and

Whereas, North Carolina took an active role in both of the previous conferences which resulted in wide activity in the way of meetings statewide and smaller meetings throughout the State which helped to focus within the State on problems and needs of the over half million North Carolinians 65 and over; and

Whereas, it will benefit the State of North Carolina to have this national focus because it will mean an increased focus generally;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina does hereby urge Congress to enact enabling legislation looking toward the planning and financing of a White House Conference on Aging in 1980 or 1981.

Sec. 2. That a certified copy of this resolution be sent by the Secretary of State to United States Senator Frank Church and United States Representative Claude Pepper.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 512 **RESOLUTION 82**

A JOINT RESOLUTION TO PROVIDE FOR A STUDY OF FACULTY WORK LOAD AND TENURE IN THE UNIVERSITY OF NORTH CAROLINA.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Board of Governors of The University of North Carolina is directed (a) to make a comprehensive study of (1) faculty work load, (2) the tenure system, and (3) related professional work of faculty in the constituent institutions of The University of North Carolina, and (b) to report its findings to the members of the General Assembly not later than February 1, 1979.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 104 **RESOLUTION 83**

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE FEASIBILITY OF ESTABLISHING A SEA WORLD IN THE COASTAL AREA OF NORTH CAROLINA.

Whereas, each year thousands of tourists from the northern states travel through North Carolina on the way to coastal resort and vacation areas in South Carolina, Georgia and Florida; and

Whereas, the establishment of a Sea World or Marine Land as a major tourist attraction in the coastal area of North Carolina would be of immeasurable economic and recreational value and would greatly enhance education in the field of marine science; and

Whereas, the coastal area affords a natural and scenic location for the establishment of a Sea World in North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission, as structured under G.S. 120-30.10 et seq., is directed to study the feasibility of establishing a Sea World in the coastal area of North Carolina. Among other things, the study shall investigate anticipated visitor use of a Sea World facility, the likelihood that the facility will or will not be self-supporting, and an appropriate and distinctive name for the facility. The Commission shall report to the 1979 General Assembly.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 860 **RESOLUTION 84**

A JOINT RESOLUTION CREATING A COMMITTEE FOR THE STUDY OF THE LAWS RELATING TO THE CONSERVATION OF WILDLIFE RESOURCES IN ORDER TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY FOR REVISION AND CONSOLIDATION.

Whereas, the first comprehensive law relating to the conservation of wildlife resources in North Carolina was enacted in 1935; and

Whereas, there has since been no major revision of the State's wildlife conservation law, other than the fisheries law, and the same has not only become obsolete and outdated, but due to numerous fragmentary and conflicting amendments at different times and for different purposes the law has become confusing and difficult of administration and enforcement; and

Whereas, during the current session of the General Assembly a comprehensive measure has been introduced for the purpose of revising, updating and consolidating the State's wildlife conservation law, and it appears there are conflicting interests which may not be susceptible of resolution but which should be accommodated to the extent possible within the limits of sound conservation principles; and

Whereas, there is insufficient time remaining of the current session of the General Assembly in which to effect such an accommodation in the best overall interests of all concerned;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. There is hereby created a committee to be known as the Conservation Law Study Committee of North Carolina and to be comprised of seven members. Two of such members shall be members of the Senate of North Carolina, one of whom shall be the Chairman of the Senate Wildlife Committee and one of whom shall be appointed from the membership of the Senate by the Lieutenant Governor. Two members of the Conservation Law Study Committee shall be members of the North Carolina House of Representatives, one of whom shall be the Chairman of the House Wildlife Committee and one of whom shall be appointed from the membership by the Speaker of the House of Representatives. Three members of the Conservation Law Study Committee shall be members of the North Carolina Wildlife Resources Commission who shall be appointed by the Governor of North Carolina. All members of the Conservation Law Study Committee shall be appointed by the respective appointive authorities not later than December 31, 1977.

Sec. 2. The North Carolina Conservation Law Study Committee shall convene initially at 10:00 a.m. on Wednesday, February 1, 1978, in the commission conference room of the Wildlife Resources Commission headquarters in the City of Raleigh. At such initial meeting the committee shall select a chairman and such other officers as it may deem expedient. Thereafter the committee shall meet at such time and place as the chairman or a majority thereof shall determine, in accordance with such rules as the committee may adopt for its own organization and procedure.

Sec. 3. It shall be the duty of the committee to examine the existing wildlife conservation laws of this State and of such other jurisdiction as it may deem pertinent with a view toward modernizing and consolidating the conservation laws of North Carolina and harmonizing, insofar as possible, the conflicting interests of all persons concerned therewith. The committee may hold public hearings on such general or specific issues of proposals and at such times and places as it may deem proper.

Sec. 4. The Wildlife Resources Commission shall provide staff support for the Conservation Law Study Committee, and shall be responsible for the acquisition and presentation of such study materials and biological and scientific information as the committee may require for its purposes, and for the arrangement, publicizing and conduct of its public hearings and for the preparation of its findings and recommendations. In order to expedite the work of the committee, the staff of the Wildlife Resources Commission shall include a presentation and discussion of matters of interest to the general public regarding proposed revision and consolidation of the conservation laws in conjunction with its annual public hearing on hunting regulations in the wildlife districts during April 1978. Information gathered at these hearings will be presented to the committee for its use.

Sec. 5. The Conservation Law Study Committee shall make its report and recommendations in the form of proposed legislation to the General Assembly not later than February 1, 1979.

Sec. 6. The members of the Conservation Law Study Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 120-3.1, G.S. 138-5 or G.S. 138-6, as the case may be, which shall be paid from the Wildlife Resources Fund.

Sec. 7. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 578 RESOLUTION 85

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE REVENUE LAWS OF THE STATE OF NORTH CAROLINA, AND TO MAKE RECOMMENDATIONS FOR UPDATING THESE LAWS.

Whereas, many of the revenue laws of the State of North Carolina administered by the Department of Revenue were first promulgated in 1939 and have since remained in their original basic form without specific amendment or revision; and

Whereas, since 1939 the number of professions and occupations, individuals and corporations, subject to said revenue laws has increased dramatically, with an attendant increase in filing and reporting requirements which requirements may vary in manner and content as to each particular taxing schedule; and

Whereas, in 1969 and 1976 Tax Reform Acts enacted substantial amendments to the federal Internal Revenue Code necessitating possibly specific revisions of the North Carolina Revenue Act;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission shall study the revenue laws and their administration in North Carolina.

Sec. 2. The commission shall make a thorough and comprehensive study and review of the revenue laws of the State of North Carolina to determine whether these laws need clarification, technical amendment, or recodification. The commission shall focus upon any unnecessary burdens or inconvenience, if any, to the taxpayers of North Carolina, existing by virtue of substantive law or agency regulation, and shall furnish where applicable recommendations alleviating unnecessary or duplicative record keeping, reporting, or return filing. The thrust of the commission's activities shall be to insure that the Revenue Act of North Carolina is as concise, intelligible, and administratively responsive, as is reasonably practicable, and to this end, to provide where necessary internal consistency in regard to the act's general administrative and penal provisions. By means of illustration, but not by way of limitation, the commission shall study and make recommendations regarding the following specific areas of the Revenue Act:

(a) reconciling the fiscal year, taxable period reporting requirements of Article 2 (Privilege License Taxes) with the taxable period, calendar year reporting requirements imposed by the income tax laws upon individuals, partnerships, and corporations;

(b) combining the intangibles tax return and its reporting, disclosure requirements, with those imposed by the individual income, and corporate income, or other, schedules;

(c) authorizing an overpayment of estimated income tax liability to be carried forward and applied against that arising in the succeeding income tax year;

(d) constancy and consistency in the imposition, determination and calculation of penal amounts;

(e) effects of the recent federal Tax Reform Acts upon the revenue laws of the State.

The commission shall conduct studies in the areas of inheritance and gift tax and income tax, and recommend such changes as it may deem advisable to the ends that the State revenue laws may be as productive as possible, consistent with equity, stability and efficient administration.

Sec. 3. The commission may call upon the Department of Revenue to cooperate with it in its study, and the Secretary of Revenue shall insure that its employees and staff provide full and timely assistance to the commission in the execution of its duties. All reports, evaluations, and other support services supplied in preparing and gathering data shall be done at the direction of and in conjunction with the commission.

Sec. 4. The commission shall produce an interim report to the 1977 General Assembly, Second Session 1978, and a final report to the 1979 General Assembly.

Sec. 5. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 533 RESOLUTION 86

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROBLEMS AND NEEDS OF THE AGING POPULATION IN NORTH CAROLINA AND TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

Whereas, rapid advances in technology and science in recent years have spawned drastic changes in our patterns of living, leading to a fragmentation of our social structures and a disintegration of traditional family roles, creating serious economic, social, and psychological problems for the aging members of our population; and

Whereas, the aging population in North Carolina presently constitutes over fourteen percent (14%) of the total population and is increasing three times faster than the State population as a whole; and

Whereas, continued inflation, rising taxes, increasing costs of medical care, inadequate institutional care facilities, insufficient pension income, forced early retirement, and lack of public awareness, have compounded the problems of the elderly; and

Whereas, because these older citizens have contributed magnificently to the progress and general well-being of our State and nation, and it is our concern and desire that their retirement years be a time of fulfillment rather than frustration;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., shall make a thorough study of the entire range of problems and needs of the older adults of this State and to make specific recommendations to the Governor and the General Assembly on how these problems can be satisfactorily solved and met by legislative action which is

deemed necessary and appropriate. In its deliberations, the commission shall examine national trends and programs in other states as well as programs and priorities in North Carolina. For purposes of this study, "older adult" is defined as every citizen who is 60 years of age or older. The commission shall report to the 1977 General Assembly, Second Session 1978.

Sec. 2. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 702 RESOLUTION 87

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY POSSIBLE NORTH CAROLINA ADOPTION OF THE MODEL LAND DEVELOPMENT CODE PROPOSED BY THE AMERICAN LAW INSTITUTE, AND TO REPORT TO THE 1979 GENERAL ASSEMBLY.

Whereas, North Carolina and many other states currently have enabling statutes allowing local governments to adopt planning regulations and to control local development; and

Whereas, these statutes are based on model legislation more than 50 years old; and

Whereas, these enabling statutes fail to provide local government with the necessary authority and flexibility to effectively deal with development problems and to properly provide development benefits; and

Whereas, the American Law Institute has just completed a 12-year study of land development, resulting in a Model Land Development Code which proposes to modernize the authority of local governments to plan and regulate development;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured under G.S. 120-30.10 et seq, is directed to study possible North Carolina adoption of the Model Land Development Code proposed by the American Law Institute.

Sec. 2. The commission shall examine the American Law Institute's Model Land Development Code, and the commission shall recommend changing North Carolina law to incorporate any parts of the model code that will improve development planning and regulation authority for North Carolina local governments.

Sec. 3. The commission shall report the results of its study to the 1979 General Assembly.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1385 **RESOLUTION 88**

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROBLEM OF PRICE INSTABILITY IN THE COMMERCIAL FISHING INDUSTRY AND TO REPORT TO THE NEXT APPROPRIATE SESSION OF THE GENERAL ASSEMBLY.

Whereas, the commercial fishing industry is a vital component in the economic well-being of the State; and

Whereas, fish are perishable and hence are subject to special marketing problems; and

Whereas, the abundance or scarcity of fish during certain times of the year causes wide fluctuations in the price which commercial fishermen are able to obtain for their catch; and

Whereas, it is desirable to assure a greater degree of stability in the price which commercial fishermen receive for their catch in order to assure the maximum contribution of the fishing industry to the economy of the State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is directed to study the problems which commercial fishermen face due to price instability and to report on the desirability and feasibility of legislation which would address this problem to the next appropriate session of the General Assembly.

Sec. 2. The co-chairmen of the Legislative Research Commission are authorized to appoint additional members of the General Assembly to study committees to assist the regular members of the commission in conducting this study, and they are authorized to appoint members of the public to advisory subcommittees. In appointing study committees the co-chairmen of the Legislative Research Commission should appoint one senator and one representative from the coastal area of the State.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1274 **RESOLUTION 89**

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE FEASIBILITY OF ESTABLISHING HORSE RACING IN NORTH CAROLINA.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., is directed to study the feasibility of establishing horse racing in North Carolina with regulated pari-mutuel betting. Among other things the study shall investigate and report whether it is in the public interest to establish horse racing with regulated pari-mutuel betting in North Carolina, alternative arrangements for regulating pari-mutuel betting, legal aspects, economic feasibility, and estimated revenues for the State of North Carolina and its political subdivisions. The commission shall report to the 1979 General Assembly, and it may submit an interim report to the 1977 General Assembly, Second Session 1978.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1283 RESOLUTION 90

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CHAPTER 24 OF THE GENERAL STATUTES AND RELATED CREDIT AND INTEREST LAWS, AND TO DETERMINE THE FEASIBILITY OF ESTABLISHING ONE SUPERVISORY AUTHORITY OVER ALL LENDERS IN NORTH CAROLINA.

Whereas, the interest laws of North Carolina have never been examined as a whole; and

Whereas, these laws are important to the North Carolina public, but are often ambiguous and overly complex; and

Whereas, a thorough examination of these laws, and of the regulatory system concerning the granting of credit in North Carolina would be of great benefit to the public of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission shall study credit and interest laws in North Carolina including, but not limited to, consideration of:

(1) The present coverage of the credit laws.

(2) The effect of these credit laws upon lenders, borrowers, and the general public of the State of North Carolina.

(3) Methods by which present credit laws can be clarified, including but not limited to a study and possible rewrite of the various interest provisions and fees under Chapter 24 of the General Statutes.

(4) Ways in which credit laws can be improved to the benefit of the North Carolina public.

(5) Ways in which the regulation of lenders in North Carolina can be improved to the benefit of the North Carolina public, including consideration of the types of reports which should be made by lenders and consideration of one supervisory agency to regulate all lenders.

(6) Ways in which regulation of lenders of North Carolina can be better organized toward efficiency in government.

The commission shall report to the 1979 General Assembly.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1291 RESOLUTION 91

A JOINT RESOLUTION TO PROVIDE FOR A STUDY OF THE FORMULAS AND FUNDING PROCEDURES WHEREBY THE STATE BOARD OF EDUCATION ALLOCATES FUNDS TO LOCAL ADMINISTRATIVE UNITS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The State Board of Education is hereby directed to appoint a commission to study the various formulas for allocating funds to local administrative units. The commission's membership shall reflect representation from the legislature, boards of education and local administrators.

Sec. 2. The commission shall address the issues of equity in funding, pupil-teacher ratios, and program costs as encompassed in House Bill 1291 as originally introduced in the 1977 General Assembly.

Sec. 3. As used in this resolution, the term "teacher-pupil ratio" includes the ratio of pupils to occupational education teachers, special education teachers, to classified principals and assistant principals and other supervisory personnel, and to instructional support personnel, as well as the ratio of pupils to general classroom teachers.

Sec. 4. The commission shall report to the State Board of Education in sufficient time for the board to reflect the recommendations in its interim budget request to the Advisory Budget Commission in early 1978. The commission shall keep the Legislative Research Commission advised of its progress on the study, since the Research Commission will be undertaking a related study of school funding and personnel. The commission shall also report to the 1977 General Assembly, Second Session 1978.

Sec. 5. The State Board of Education is authorized to pay customary compensation and expenses to commission members and to pay the other reasonable expenses of the commission from funds appropriated to the board.

Sec. 6. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1360 RESOLUTION 92

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY HOUSING AND BUILDING CODES IN NORTH CAROLINA TO DETERMINE WHETHER THESE CODES HAVE THE EFFECT OF RESTRICTING HOME OWNERSHIP.

Whereas, housing and building codes in North Carolina often require the addition of substantial costs to construction of new homes; and

Whereas, these additional costs may place home ownership beyond the reach of many individuals who might otherwise be able to afford to own their own homes; and

Whereas, a thorough examination of these codes to determine which of the requirements are necessary to safety and which are not, might allow for the elimination of unnecessary requirements and therefore lower the cost of home ownership;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., shall study Housing and Building Codes in North Carolina including, but not limited to, consideration of the following:

(1) the ways in which building codes have presently been formulated;

(2) the substance of building codes in North Carolina;

(3) the requirements that are necessary and proper to adequate and safe housing;

(4) a determination of the various ways in which present building and housing codes are insufficient, or go beyond the standards necessary and proper to safe and decent housing; and

(5) ways in which the building codes can be made consistent with the need of North Carolina citizens for safe housing and low cost housing.

The Commission shall report to the 1979 General Assembly.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1377 RESOLUTION 93

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE DUTIES OF THE LIEUTENANT GOVERNOR.

Whereas, the Constitution of the State of North Carolina provides that the General Assembly may assign duties to the Lieutenant Governor; and

Whereas, there appears to be need to define more clearly the duties of the office of Lieutenant Governor so as to utilize appropriately the time and talent of the Lieutenant Governor and to serve the needs of the people; and

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., shall study the duties of the Lieutenant Governor of North Carolina, and if appropriate, the commission shall recommend legislation expanding or modifying the present duties. The commission shall report to the 1979 General Assembly.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1381

RESOLUTION 94

A JOINT RESOLUTION CREATING A COMMITTEE FOR THE STUDY OF THE COLLECTION OF PROPERTY TAXES ON MOTOR VEHICLES.

Whereas, the counties and municipalities of this State are experiencing increasing difficulty in collecting property taxes on motor vehicles; and

Whereas, it is estimated that between fifteen percent (15%) and twenty percent (20%) of all motor vehicles subject to tax in this State are not being listed for taxation; and

Whereas, this results in a substantial amount of lost revenues for the counties and municipalities and a substantial increase in the cost of administering the tax on motor vehicles on the part of the counties; and

Whereas, the General Assembly has demonstrated its concern for this problem by its consideration of legislation designed to establish an alternative method of collecting the tax on motor vehicles; and

Whereas, most of the other states have moved to a different system of collecting tax on motor vehicles; and

Whereas, the 1976 Committee for the Study of the Property Tax System in North Carolina in its report to the 1977 General Assembly recommended the creation of a high level commission to study this problem in detail and prepare proposals for consideration by the 1978 or subsequent session of the General Assembly; and

Whereas, that committee was convinced, as were prior study committees, that a different and more efficient method of collecting property taxes on motor vehicles is urgently needed in North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. There is hereby created the Committee for the Study of the Collection of Property Taxes on Motor Vehicles, to be composed of 12 members. Six members shall be appointed by the President of the Senate and six members shall be appointed by the Speaker of the House. All appointments shall be made in time for the committee to begin its work by September 1, 1977.

Sec. 2. Upon its appointment, the committee shall organize by electing from its membership a chairman and a vice-chairman.

Sec. 3. It shall be the duty of the committee to make a comprehensive study of the efficiency and effectiveness of the present system of collecting property taxes on motor vehicles in North Carolina. In its study the committee shall review the systems employed by other states to determine the efficiency and effectiveness of those systems in comparison to that used in North Carolina. Among other alternatives, the committee shall consider a system that will coordinate the collection of ad valorem taxes with the renewal of license tags.

Sec. 4. Members of the committee who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Members of the committee who are not officials or employees of the State of North Carolina and who are not members of the General Assembly shall receive per diem compensation and travel expenses at the rate set forth in G.S. 138-5. Any members of the committee who are officials or employees of the State of North Carolina shall receive travel allowances at the rate set forth in G.S. 138-6.

Sec. 5. The committee shall have authority to employ clerical assistance and to purchase necessary supplies and materials.

Sec. 6. The expenses of the committee shall be paid from funds collected by the Department of Revenue under Article 7, Chapter 105 of the General Statutes of North Carolina. The funds so expended shall be deducted as in G.S. 105-213(a) from the costs of administering the intangibles tax. Committee expenses shall be limited to a maximum of ten thousand dollars ($10,000), and no funds may be expended on committee matters after June 30, 1978.

Sec. 7. The committee is authorized to obtain assistance in carrying out its functions under this resolution from the Department of Revenue, the Department of Transportation, the Fiscal Research Division of the Legislative Services Commission, and local government units or organizations of local government units. The committee shall also consult with representatives of the automobile industry.

Sec. 8. The committee shall make a written report of its study to the General Assembly, including recommendations for appropriate legislative action. The report shall be presented no later than the opening date of the 1977 General Assembly, Second Session 1978.

Sec. 9. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1409 RESOLUTION 95

A JOINT RESOLUTION TO PROVIDE FOR A STUDY BY THE LEGISLATIVE RESEARCH COMMISSION CONCERNING THE FINANCING OF WATER RESOURCES DEVELOPMENT PROJECTS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is hereby directed to conduct a study concerning State and local financial participation in water resources development projects for water supply, flood control, drainage, navigation, beach protection and recreation. The study shall include water resources development projects sponsored by the U.S. Army Corps of Engineers, the U.S. Soil Conservation Service, and the Tennessee Valley Authority, as well as those carried out by State and local government without federal participation. Consideration shall be given to:

(a) the types of projects, project purposes and/or project cost components to which the State should contribute financially;

(b) for each project type, purpose, or cost component, the percentage of the nonfederal cost to be paid by the State and that to be paid by local governments, sponsors, or beneficiaries;

(c) the best method of financing State and local contributions to water resources development projects;

(d) procedures to be followed by the General Assembly in authorizing State financial participation in water resources development projects and in appropriating funds for these projects.

Sec. 2. The Commission shall report to the 1979 General Assembly, and it may submit an interim report to the 1977 General Assembly, Second Session 1978.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

H. R. 1414 RESOLUTION 96

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ROLE OF THE PHYSICIAN'S ASSISTANT AND NURSE PRACTITIONER IN THE DELIVERY OF MEDICAL SERVICES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., is directed to make a study of the role of the physician's assistant and nurse practitioner in the delivery of medical services, for the purpose of determining the necessity for statutory revisions in the Medical Practice (Article 1 of Chapter 90 of the General Statutes) and Nurse Practice (Article 9 of Chapter 90 of the General Statutes) Acts. The Commission shall report to the 1979 General Assembly.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 858 RESOLUTION 97

A JOINT RESOLUTION REQUESTING CONGRESS TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES IN ANY FISCAL YEAR, WITH CERTAIN EXCEPTIONS.

Whereas, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now amounts to hundreds of billions of dollars; and

Whereas, attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous assertions that the responsibility for appropriations is the constitutional duty of the Congress; and

Whereas, the annual federal budget repeatedly demonstrates the unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

Whereas, the unified budget does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

Whereas, the "U.S. News and World Report" reported on February 25, 1974, that of these nonbudgetary outlays in the amount of fifteen billion six hundred million dollars ($15,600,000,000), the sum of twelve billion nine hundred million dollars ($12,900,000,000) represents funding of essentially private agencies which provide special services to the federal government; and

Whereas, knowledgeable planning and fiscal prudence require that the budget reflect all federal spending and that the budget be in balance; and

Whereas, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our

nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend; and

Whereas, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That procedures be instituted in the Congress to add a new Article XXVII to the Constitution of the United States, and that Congress prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated federal revenues, excluding any revenues derived from borrowing, for that fiscal year.

Sec. 2. That the proposed new Article XXVII (or whatever numeral may then be appropriate) read substantially as follows:

"PROPOSED ARTICLE XXVII.

"The total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated federal revenues for that fiscal year, excluding any revenues derived from borrowing; and this prohibition extends to all federal appropriations and all estimated federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article. If the President proclaims a national emergency, suspending the requirement that the total of all federal appropriations not exceed the total estimated federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds of all members elected to each House of the Congress concur by Joint Resolution, the total of all federal appropriations may exceed the total estimated federal revenues for that fiscal year."

Sec. 3. That copies of this resolution be transmitted to the President of the United States, the chairmen of the Judiciary Committees of both the Senate and House of Representatives, the chairman of the Joint Committee on Budget Control of the Congress and to each member of the North Carolina Congressional Delegation.

Sec. 4. That copies of this joint resolution be transmitted to the Secretary of State and to the presiding officers of both houses of the legislature of each of the other states in the union, with the request that it be circulated among leaders in the executive and legislative branches of the several state governments; and with the further request that each of the other states in the union join in requiring the Congress of the United States to initiate a proposal to amend the Constitution of the United States in substantially the form proposed in this joint resolution.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 848

RESOLUTION 98

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO COMPLETE THE RECODIFICATION OF NORTH CAROLINA'S PUBLIC SCHOOL LAWS.

Whereas, the 1975 General Assembly directed revision of the North Carolina public school laws by the State Board of Education and a special Commission on Revision and Recodification (S.L. 1975, c. 888; S.B. 533); and

Whereas, the recodification and revision effort produced a lengthy report and resulted in the introduction on May 30, 1977, of a 256-page bill (S.B. 788) that would completely rewrite the public school laws, current G.S. Chapter 115; and

Whereas, the 1977 General Assembly will not have sufficient time to fully examine S.B. 788, particularly with respect to the changes in G.S. Chapter 115 made after the drafting of the proposed replacement for G.S. Chapter 115 in S.B. 788;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10, et seq., is directed to study the issues related to revision of G.S. Chapter 115 as proposed by 1977 General Assembly Senate Bill 788. The commission shall pay particular attention to incorporation into the revision the 1977 General Assembly changes in G.S. Chapter 115. The commission shall also study the issues contained in House Bill 1453 and Senate Bill 846 relating to the fiscal functions of the State Board of Education.

Sec. 2. The commission shall report to the 1979 General Assembly.

Sec. 3. This resolution shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

S. R. 21

RESOLUTION 99

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO COMPLETE ITS STUDY OF THE FEASIBILITY OF CONSTRUCTING AND FINANCING IN NORTH CAROLINA UPON A SELF-SUPPORTING BASIS OR OTHERWISE AN INDOOR SPORTS FACILITY.

Whereas, Resolution 119 of the 1975 General Assembly directed the Legislative Research Commission to study the feasibility of constructing and financing a sports arena of sufficient capacity to serve the people of this State and its future growth; and

Whereas, the Legislative Research Commission's Sports Facility Study Committee was not able to commence its study effort until October 1976 because of many unforeseen circumstances, especially the scheduling and activities of other interim legislative studies, which preempted the time of committee members and staff; and

Whereas, the Sports Facility Study Committee was unable to complete its task in time for the convening of the 1977 General Assembly; and

Whereas, the terms of the members of the 1975-77 Legislative Research Commission expire upon the convening of the 1977 General Assembly, and the next Legislative Research Commission will not be appointed until the close of the regular session of the 1977 General Assembly;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is authorized to complete its study of the feasibility of constructing in North Carolina, and financing, a sports arena of sufficient capacity to serve the people of this State and its future growth. The commission's study may include without limitation the study directives contained in Section 2 of ratified Resolution 119 of the 1975 General Assembly.

Sec. 2. The commission shall report its findings and recommendations to the 1979 General Assembly.

Sec. 3. This resolution shall become effective upon ratification.

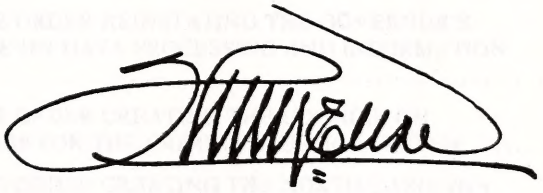
In the General Assembly read three times and ratified, this the 1st day of July, 1977.

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE,

RALEIGH, JULY 5, 1977

I, THAD EURE, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.



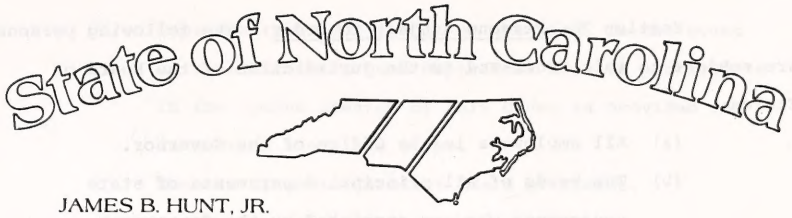
Secretary of State

APPENDIX

EXECUTIVE ORDERS OF GOVERNOR JAMES B. HUNT, JR.

Title	Number
AN EXECUTIVE ORDER ESTABLISHING THE NORTH CAROLINA BOARD OF ETHICS	I
AN EXECUTIVE ORDER APPROVING A LAND RESOURCES PROGRAM FOR NORTH CAROLINA	II
AN EXECUTIVE ORDER CREATING THE OFFICE OF CITIZEN AFFAIRS AND TRANSFERRING THE OFFICE OF CITIZEN PARTICIPATION TO SAID OFFICE	III
AN EXECUTIVE ORDER TRANSFERRING CERTAIN FUNCTIONS OF THE FORMER OFFICE OF INTERGOVERNMENTAL RELATIONS TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES	IV
AN EXECUTIVE ORDER ESTABLISHING THE GOVERNOR'S ADVISORY COMMITTEE ON AGRICULTURE, FORESTRY AND SEAFOOD INDUSTRY	V
AN EXECUTIVE ORDER ESTABLISHING THE NORTH CAROLINA JUVENILE CODE REVISION COMMITTEE	VI
AN EXECUTIVE ORDER CREATING THE GOVERNOR'S COMMISSION ON PUBLIC SCHOOL FINANCING	VII
AN EXECUTIVE ORDER REINSTATING THE GOVERNOR'S COMMITTEE ON DATA PROCESSING AND INFORMATION SYSTEMS	VIII
AN EXECUTIVE ORDER CREATING THE COUNCIL ON VOLUNTEERS FOR THE CRIMINAL JUSTICE SYSTEM	IX
AN EXECUTIVE ORDER CREATING THE NORTH CAROLINA BOUNDARY COMMISSION	X
AN EXECUTIVE ORDER CREATING THE TASK FORCE ON TECHNICAL ASSISTANCE	XI
AN EXECUTIVE ORDER CREATING THE JUDICIAL NOMINATING COMMITTEE FOR SUPERIOR COURT JUDGES	XII
AN EXECUTIVE ORDER CREATING THE GOVERNOR'S COMMISSION ON GOVERNMENTAL PRODUCTIVITY	XIII
AN EXECUTIVE ORDER NAMING THE SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY AS ADVISOR TO THE GOVERNOR ON ALL CIVIL PREPAREDNESS ACTIVITIES	XIV

APPENDIX



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER I

WHEREAS, public office in North Carolina must always be regarded as a public trust; and

WHEREAS, the people of North Carolina have a fundamental right to the assurance that officers of their government will not use their public position for personal gain; and

WHEREAS, this Administration is committed to restore and maintain the confidence of North Carolina citizens in their government; and

WHEREAS, there is a need in North Carolina for the creation of an institutionalized procedure designed to prevent the occurrence of conflicts of interest in government and to deal with them when they do occur; and

WHEREAS, this Administration realizes that the vast majority of state government employees are honest and hard working in their public and private lives;

NOW, THEREFORE, it is hereby ordered:

Section 1. North Carolina Board of Ethics. There is hereby established the North Carolina Board of Ethics consisting of five persons to be appointed by the Governor to serve at his pleasure. The Governor shall, from time to time, designate one of the members as Chairman. The members shall receive no compensation, but shall receive reimbursement for any necessary expenses incurred in connection with the performance of their duties pursuant to General Statute 138-5. The Board of Ethics shall not be considered a public office for the purpose of dual office holding.

Section 2. Persons subject to Order. The following persons are subject to this Order and to the jurisdiction of the Board of Ethics:

(a) All employees in the Office of the Governor.

(b) The heads of all principal departments of state government who are appointed by the Governor.

(c) The chief deputy or chief administrative assistant to each of the aforesaid heads of principal state departments.

(d) All "confidential" assistants or secretaries to the aforesaid department heads (or to the aforesaid chief deputies and assistants of department heads) as defined in G.S. 126-5 (b) (2).

(e) All employees in policy-making positions as designated by the Governor pursuant to the State Personnel Act as defined in G.S. 126-5 (b) (3), and all "confidential" secretaries to these individuals as defined in G.S. 126-5 (b) (4).

(f) Any other employees in the principal departments of state government, except in those principal departments headed by elected heads other than the Governor, as may be designated by rule of the Board subject to the approval of the Governor, to the extent such designation does not conflict with the State Personnel Act.

(g) The members of all commissions, boards and councils appointed by the Governor, with the exception of members of those commissions, boards and councils the Board of Ethics determines perform solely advisory functions.

(h) The elected heads of other principal state departments, and certain employees of those

departments as designated by the head, in the event of an election by such department head to participate in the system created by this Order as provided for in Section 6 of this Order.

(i) Members of North Carolina Board of Ethics.

Section 3. Specific Prohibitions.

(a) No person subject to this Order shall engage in any activity which interferes or is in conflict with the proper and effective discharge of such person's official duties.

(b) No person who is employed by the state in a full-time position and who is subject to this Order, shall hold any other public office or public employment for which compensation, direct or indirect, is received except under circumstances and in the manner approved by the Board upon review of a written request pursuant to Board procedures;

(c) No person subject to this Order shall solicit in their official capacity any gratuity or other benefits for themselves from any other person under any circumstances.

Any exception to the foregoing prohibitions granted by the Board, may only be allowed by the Board upon written application to the Board, and after a specific finding by the Board that such activity does not violate the intent of this Order and in no way interferes or conflicts with the proper and effective discharge of the official duties of the person making the request. The Board shall make a determination in each such case, which shall be final. The determination of the Board in every such case shall be made available for public inspection at a convenient location.

Section 4. Statements of Economic Interest.

(a) Prior to commencement of state service and thereafter

between April 15 and May 15 of each succeeding year, each of the following persons subject to this Order shall file with the Board a sworn Statement of Economic Interest:

(i) Each person appointed by the Governor and subject to this Order;

(ii) Each person subject to this Order, whether or not appointed by the Governor, who receives $20,000 or more from the state;

(iii) Each person subject to this Order, irrespective of the amount of compensation received, whose position is subject to undue influence (as determined from time to time by the Board);

(iv) Each person designated by the elected head of a principal department of state government pursuant to Section 6 of this Order;

(v) Statements filed by members of the Board of Ethics shall be filed with the Governor and shall be made public.

(b) The Statement of Economic Interest shall contain:

(i) The name, home address, occupation, employer and business address of the person filing and his or her spouse.

(ii) A list of all assets and liabilities of the person filing and his or her spouse which exceed a valuation of $1,000. With respect to each asset and liability listed, the specific valuation need not be set forth, but there should be an indication as to whether the valuation of each asset or liability exceeds $5,000. This list shall

contain, but shall not be limited to, the following:

(A) All real estate, with a specific description adequate to determine the location of each parcel;

(B) The name of each publicly-owned company (companies which are required to register with the Securities and Exchange Commission) in which securities are owned, with an indication as to whether the valuation of the securities owned in each company listed exceeds $5,000.

(C) The name of each non-publicly-owned company or business entity in which securities or other equity interests are owned, and an indication as to whether the valuation of the securities or equity interest owned in each such company or business entity listed exceeds $5,000.

(D) With respect to the aforesaid non-publicly-owned company or business entities in which the interest of the person filing and his or her spouse exceed a valuation of $5,000, if any such companies or business entities own securities or equity interests in other companies or business entities, the name of each such other company or business entity should be listed if the securities or other equity interests in them held by the aforesaid non-publicly-owned company exceed a

valuation of $5,000.

(E) If the person filing or his or her spouse or dependent children are the beneficiary of a trust which holds assets, and if those assets are known, the name of each company or other business entity in which securities or other equity interests are held by the trust should be listed, with an indication as to whether the valuation of the securities or equity interest held in each such company or business entity listed exceed $5,000, and with the name and address of the trustee and a description of the trust. If any of the aforesaid assets are securities or other equity interests in a corporation or other business entity, each such corporation or business entity should be listed separately by name. If the assets held by such a trust and the name and address of the trustee should be provided.

(F) A list of all other assets and liabilities which exceed a valuation of $1,000 (including bank accounts and debts), with an indication as to whether each asset and liability exceeds a valuation of $5,000.

(iii) A list of all sources (not specific amounts) of income (including capital gains) shown on the most recent federal and state income tax returns of the person filing and his or her spouse, indicating each source from which $5,000 or more was received;

(iv) If the person filing is a practicing attorney,

check each category of legal representation in which the person filing, and/or his or her law firm has, during any single year of the past five years. earned legal fees in excess of five thousand dollars ($5,000) from any of the following categories of legal representation:

_____Criminal law

_____Utilities regulation or representation of regulated utilities

_____Corporation law

_____Taxation

_____Decedent's estates

_____Labor law

_____Insurance law

_____Administrative law

_____Real property

_____Admiralty

_____Negligence (representing plaintiffs)

_____Negligence (representing defendants)

(v) A list of all businesses with which, during the past five years, the person filing or his or her spouse have been associated, indicating the time period of such association and the relationship with each business as an officer, employee, director, partner or owner of a security or other equity interest, and indicating whether or not each does business with or is regulated by the state and the nature of the business, if any, done with the state.

(vi) In all statements of economic interest after the first one filed by an individual, a list

of all gifts of a value of more than $50 received during the twelve months preceding the date of the Statement of Economic Interest from sources other than relatives of the person filing and his or her spouse, and a list of all gifts, irrespective of value, received from any source having business with or regulated by the state.

(vii) Other information as may be deemed necessary to effectuate the purposes of this Order, as provided for by rule of the Board.

(viii) A statement setting forth any other information or relationship which the person filing believes may relate to any actual or potential conflict of interest he or she may have as an employee of state government.

(ix) A sworn certification by the person filing that he or she has read the Statement of Economic Interest, and that to the best of his or her knowledge and belief it is true, correct, complete and that he or she has not transferred and will not transfer any asset, interest or other property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

(c) Any person required to file a Statement of Economic Interest may request the Board to delete an item, which may be deleted by the Board pursuant to a written request, but only upon a finding that it is of a highly personal nature, does not in any way relate to the duties of the position held or to be held by such person and does not create an actual or potential conflict of interest.

(d) Until such time as the Board of Ethics shall issue a form for such Statements of Economic Interest, which in no event shall be later than June 30, 1977, the form for such Statements is appended hereto and is made a part of this Order.

(e) After review and evaluation by the Board, the Statements of Economic Interest will be made available by the Board for public inspection.

Section 5. Duties of Board of Ethics.

(a) The Board shall review all Statements of Economic Interest submitted to it to determine their conformity with the terms of this Order and the Board's rules, and to evaluate the financial interests of the person filing to determine whether there appears to be actual or potential conflicts of interest. The Board shall submit a written report of each such evaluation to the Official responsible for making the appointment of the person filing, and to the Governor, unless the person is an employee of one of the other principal departments of state government listed in Section 6 of this Order, in which case a copy of the written report shall be sent to the elected head of that department. The Board may recommend remedial action with respect to any problem which is apparent from any Statement.

(b) The Board shall evaluate all claims of privacy made concerning a portion of a Statement of Economic Interest, prior to making the Statement available for public inspection, and the decision of the Board in these matters shall be final.

(c) The Board shall provide by rule for the time, place and manner of convenient public inspection of the Statements of Economic Interest.

principal departments of state government listed in section 6 of this Order, in which case a copy of the written report shall be sent to the elected head of that department. The Board may recommend remedial action with respect to any problem revealed by such an investigation.

(h) The Board shall request, when necessary to accomplish the purposes of this Order, additional information from persons covered by this Order.

(i) The Board shall meet regularly, at the call of the Chairman, to carry out its duties.

(j) The Board shall submit a report annually to the Governor on their activities and generally on the subject of public disclosure, ethics and conflicts of interest, including recommendations for administrative and legislative action.

(k) The Board shall perform such other duties as may be necessary to accomplish the purposes of this Order.

Section 6. Other Principal Departments of State Government. The elected heads of other principal departments of state government (Office of the Lieutenant Governor, Departments of the Secretary of State, State Auditor, State Treasurer, Public Education, Justice, Agriculture, Labor and Insurance) and the University of North Carolina Board of Governors may, and hereby are invited to, join in the effort represented by this Order by providing the Chairman of the Board of Ethics with a written notice of their election to have the terms of this Order apply to those employees under their jurisdiction (who are not covered by the State Personnel Act), and with a list of the employees under their jurisdiction who will be asked to submit a Statement of Economic Interest. All services of the Board available to the Governor under this Order shall be available to each of the heads of the aforesaid departments so electing, and all of the services of the Board available to employees under this order shall be available

(d) The Board shall promulgate readily understandable rules, forms and procedures to carry out the purposes of this Order and shall publish them.

(e) The Board shall render opinions and determinations on matters pertaining to the interpretation and application of this Order.

(f) The Board shall provide reasonable assistance to all persons subject to this Order in complying with the terms of this Order.

(g) The Board shall receive information from the public concerning potential conflicts of interest and make necessary investigations. The Board shall promulgate rules to protect all employees from specious and unfounded claims and damage to their reputations which could result from such claims. The Board also shall promulgate rules to protect employees from any direct or indirect reprisals from any source resulting from efforts to inform the Board of the existence of potential or actual conflicts of interest in state government. The Board also shall promulgate rules providing for full and fair consideration of the merits of all complaints received which rules shall assure that the rights of all parties involved in the investigation are protected. All complaints and allegations concerning actual or potential conflicts of interest to be considered by the Board must contain the name, address, telephone number and signature of the individual filing such complaint or making such allegation. The Board shall prepare a report of each such investigation and forward a copy to the official responsible for making the appointment of the person investigated, and to the Governor, unless the person investigated is an employee of one of the other

to employees brought within the coverage of this Order in this manner.

Section 7. Sanctions. The failure of any employee to make timely filing of a required document, the making of a false or misleading statement or an omission in a document, the failure to cooperate with the Board of Ethics and the failure to comply with the with the terms of this Order, shall be grounds for disciplinary action, including discharge.

Section 8. Board offices. The Board of Ethics and its staff, for administrative purposes only, shall be located in the Department of Administration.

Done in Raleigh, North Carolina, this the 10th day of January in the year of our Lord, one thousand nine hundred seventy-seven.

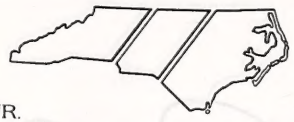
James B. Hunt, Jr., Governor
State of North Carolina

Seal of the State of North Carolina

ATTEST:

Thad Eure, Secretary
State of North Carolina

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER II

WHEREAS, Chapter 1306 of the North Carolina Session Laws of 1973, created a North Carolina Land Policy Council and directed it to prepare a State land policy and a State land classification system; and

WHEREAS, the North Carolina Land Policy Council, in conjunction with the Advisory Committee on Land Policy and after consultation with the duly constituted and authorized planning agencies of local governments and following procedures established by said Act, has prepared such State land policy and State land classification system; and

WHEREAS, the North Carolina Land Policy Council has published its recommendations as "A Land Resources Program for North Carolina," December, 1976, and copies of such program have been distributed to members of the General Assembly of North Carolina and otherwise made available to citizens of the State; and

WHEREAS, I as Governor have given careful consideration to such recommendations,

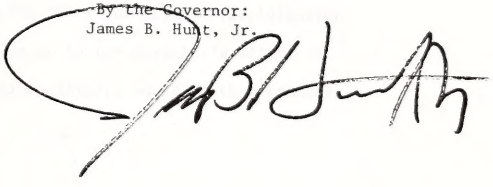
NOW, THEREFORE, I James B. Hunt, Jr., Governor of the State of North Carolina, do formally APPROVE said State land policy and State land classification system as embodied in "A Land Resources Program for North Carolina."

Done in my office in the Capital City of Raleigh this, the 4th day of February, in the year of our Lord, one thousand nine hundred seventy-seven.

Seal of the State of North Carolina

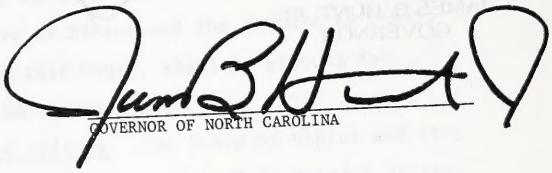


By the Governor:
James B. Hunt, Jr.



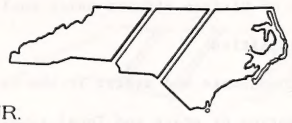
Section 4. This order shall become effective immediately.

Done in the Capital City of Raleigh, North Carolina, this 29th day of March, 1977.



GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER III

WHEREAS, Article III Section 5(10) of the Constitution of North Carolina authorizes and empowers the Governor to make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration; and

WHEREAS, there is a recognized need to restore citizen confidence in the operation and viability of governmental institutions; and

WHEREAS, this restoration can best be accomplished through greater citizen awareness of and personal involvement in state and local government programs, services and activities; and

WHEREAS, the personal and continuing leadership of the Governor is most important to achieve restored citizen confidence in governmental institutions; and

WHEREAS, creating an Office of Citizen Affairs in the Office of the Governor to promote greater citizen awareness and citizen involvement would strengthen that effort; and

WHEREAS, transferring the Office of Citizen Participation from the Department of Administration to the Governor's office to become part of the Office of Citizen Affairs would further enhance that effort,

NOW, THEREFORE, it is hereby ORDERED that:

Section 1. There is hereby created in the Office of the Governor the Office of Citizen Affairs which shall have the following duties and responsibilities:

(1) To coordinate and assist in the development and promotion of state and local government citizen participation programs, such as Community Watch, right-to-read tutoring programs, energy conservation, and others,

(2) To act as ombudsman for the people of North Carolina,

(3) To provide information to North Carolina's citizens about state programs, services and activities, and

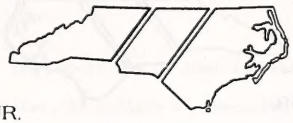
(4) To provide technical assistance to both public and private non-profit organizations, and

(5) To maintain liaison with Federal agencies and various other state and national groups concerned with the promotion of citizen participation in state and local government.

Section 2. The Office of Citizen Participation is hereby transferred to the Office of the Governor from the Department of Administration to become a part of the Office of Citizen Affairs. All transfers of unexpended balances of appropriations and other funds, personnel, records, and property from the Department of Administration to the Office of the Governor shall be completed by July 1, 1977, but the Office of Citizen Participation shall function as a part of the Office of the Governor upon the effective date of this order.

Section 3. The Office of the Governor shall be responsible for providing all necessary funds, personnel, and equipment to further the purposes of this order.

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 4

WHEREAS, Article III, Section 5(10) of the Constitution of North Carolina authorizes and empowers the Governor to make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration; and

WHEREAS, this Administration is seeking to focus additional community development responsibilities within the Department of Natural and Economic Resources; and

WHEREAS, the transfer of the state-local coordinating functions carried out by the former Office of Intergovernmental Relations from the Department of Administration to the Department of Natural and Economic Resources will further this goal,

NOW, THEREFORE it is hereby ordered that,

Section 1. The state-local coordinating functions carried out by the former Office of Intergovernmental Relations of the Department of Administration shall be transferred to the Department of Natural and Economic Resources.

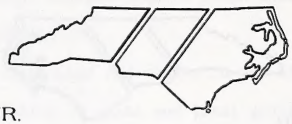
Section 2. All appropriations, personnel, and equipment for the agency described above shall be transferred to the Department of Natural and Economic Resources.

Section 3. This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 29th day of March, 1977.

GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 5

WHEREAS, the harvest of North Carolina's fields, woods and waters is a principal element in the economy of our State; and

WHEREAS, State policy on agriculture, forestry and the seafood industry as set by the Governor should be developed with the advice of spokesmen for agriculture, forestry and the seafood industry,

IT IS THEREFORE, HEREBY ORDERED:

Section 1. (a) There is hereby established the Governor's Advisory Committee on Agriculture, Forestry and the Seafood Industry.

(b) The Committee shall consist of such members as may be appointed thereto by the Governor who shall also appoint a Chairman and Vice-Chairman of the Committee.

(c) The Chairman, Vice-Chairman and other members shall serve at the pleasure of the Governor.

(d) The Governor shall convene the first meeting of the Committee at his pleasure. Subsequent meetings of the Committee may be ordered by the Governor or the Chairman.

(e) The Committee shall meet at least quarterly.

Section 2. The Committee shall have the following functions and duties:

(a) to inquire into the present conditions and future outlook for the harvest of North Carolina's fields, woods and waters;

(b) to recommend to the Governor state policy regarding the matters within its purview and the proper implementation thereof;

(c) to afford citizens the opportunity to voice their views, suggestions and ideas regarding matters within the purview of the Committee;

(d) to advise the Governor of the matters revealed by its inquiries and presented to it by the citizens of North Carolina;

(3) to undertake such other functions and duties as may be assigned by the Governor.

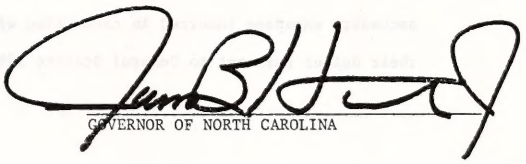
Section 3. (a) The Department of Administration shall provide staff for the Committee, to include an executive director and such clerical and other support and services as may be required by the Committee.

(b) Members of the Committee shall serve without compensation but shall receive such necessary travel and subsistence expenses as are authorized by G.S. 138-5.

Section 4. Every agency within State Government within my authority and within the purview of the Governor's Advisory Committee on Agriculture, Forestry and the Seafood Industry is requested to cooperate with the Committee in providing all necessary information regarding their activities.

Section 5. This Executive Order shall be effective immediately.

Done in Raleigh, North Carolina, this the 29th day of March, 1977.



GOVERNOR OF NORTH CAROLINA

EXECUTIVE ORDER NUMBER 6

WHEREAS, the North Carolina General Assembly of 1977 enacted Chapter 11 of the 1977 Session Laws, an act to establish the Governor's Crime Commission; and

WHEREAS, Section 3 of Chapter 11 of the 1977 Session Laws provides for the creation of the Juvenile Code Revision Committee, with its composition to be designated by the Governor by Executive Order;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is hereby established the North Carolina Juvenile Code Revision Committee consisting of fifteen (15) persons to be appointed by the Governor to serve as provided in Section 3 of Chapter 11 of the 1977 Session Laws. The composition of the Committee shall be as follows: Two (2) Judges of the District Court familiar with juvenile justice problems; two (2) members of the North Carolina Senate; two (2) members of the North Carolina House of Representatives; eight (8) citizens; and the Secretary of the North Carolina Department of Crime Control and Public Safety, who shall serve ex officio. The members shall receive no compensation but shall receive reimbursement for any necessary expenses incurred in connection with the performance of their duties pursuant to General Statute 138-5.

Section 2. This Order shall be effective immediately upon signing.

Done in Raleigh, North Carolina, this the 31st day of March, 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina



EXECUTIVE ORDER NUMBER 7

WHEREAS, determining the extent to which the concept of equal educational opportunity as set forth in the North Carolina Constitution is being achieved requires a comprehensive study of the State's provisions for financing public education and of the impact of these provisions on the availability of equal educational opportunity for all students; and

WHEREAS, the State Board of Education will be the recipient of a grant from the United States government to conduct such a study; and

WHEREAS, the purpose of the study is to develop a plan for financing public education which satisfies the State's constitutional requirement of educational opportunity and which improves the equity by which financial resources are allocated to local school districts;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is created the Governor's Commission on Public School Financing to be composed of fourteen members. The Governor shall appoint six members at least two of whom shall come from the business community and at least two of whom shall come from the General Assembly. Six members shall be appointed by the State Board of Education from a list submitted by the Superintendent of Public Instruction. The State Superintendent of Public Instruction and the Controller of the State Board of Education or their designees shall serve as ex officio members of the Commission.

The Governor shall appoint, from among the membership, a Chairman, who shall be responsible for calling meetings of the Commission.

Members shall be reimbursed for expenses pursuant to G.S. 138-5.

Section 2. The Commission shall have the following duties and responsibilities:

1) To study financial disparities among local school districts resulting from unequal Federal, State and local expenditures;

2) To recommend an adequate level of Federal, State and local financial support required to assure all students equal educational opportunity;

3) To review preliminary reports, and study alternative funding approaches; and

4) To develop policy recommendations for submission to the Governor and the State Superintendent of Public Instruction which seek to minimize financial disparities and variations in educational opportunity through an equitable distribution of financial support to local districts.

Section 3. The duties and responsibilities vested in the Governor's Commission on Public School Financing by this Executive Order are in addition to and not in derogation of any duties created by statute.

Section 4. All recommendations developed by the Commission shall be submitted to the Governor and the State Superintendent of Public Instruction no later than November 1, 1978.

Section 5. The Department of Public Instruction will provide staff support to the Commission pursuant to grant guidelines.

Section 6. All funds for the Commission will be provided by grant from United States Office of Education.

Section 7. This order shall become effective immediately.

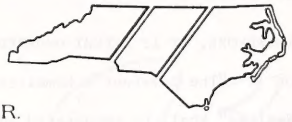
Done in the City of Raleigh, this the 6th day of April, 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 8

WHEREAS, the use of information systems and automated data processing provides an essential support to the agencies and institutions of the State of North Carolina in carrying out their many complex program activities, and

WHEREAS, the demand for information and data processing service in State government continues to expand and the costs of acquiring and maintaining equipment, recruiting, training and retaining highly skilled technical personnel continue to increase, and

WHEREAS, it is a stated objective of this administration to utilize all resources in the most efficient and economical manner in carrying out such programs and maintaining a high level of service while using such cost reduction methods as cost-sharing, innovative financing of equipment and technical and managerial training, and

WHEREAS, under the provisions of Executive Order Number 2 issued on the 25th day of March, 1969, by Governor Robert W. Scott, a group of business and professional leaders of the State, knowledgeable in the complexities of automated data processing, was formed into a committee designated the "Governor's Committee on Data Processing and Information Systems," and did provide a most valuable service to the State during the remainder of Governor Scott's term through advising, counseling and guiding the Department of Administration in the carrying

out of its duties and responsibilities as the designated agency for the control and effective use of computers, related equipment and facilities, and personnel.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. "The Governor's Committee on Data Processing and Information Systems" shall be reinstated and reconstituted as a means of deriving expert guidance and counsel in the management of State automated data processing resources. The stated purpose of the Committee is to advise the Governor and the Secretary of Administration in the automated data processing area.

Membership of this Committee shall be limited to ten voting members who shall be appointed or reappointed for a term of two years by the Secretary of Administration, with the approval of the Governor, from the ranks of leaders in the fields of management information systems and automated data processing in North Carolina businesses and industries. The Secretary shall appoint or reappoint a chairman from among these members to serve for a period of one year. In addition, the State Budget Officer, the State Purchasing Officer, and the State Personnel Officer shall serve as ex officio members for the purpose of participation in discussion and consideration of matters which affect their responsibilities. The State Auditor and the State Treasurer, by virtue of their responsibilities in accounting systems, are invited to serve as ex officio members. The State Management Systems Officer shall serve the Committee as secretary and shall provide staff support as required.

Section 2. The Secretary of Administration shall issue such further directives and notices as may be necessary and consistent with the purpose heretofore enumerated. All prior directives, orders or memoranda inconsistent herewith are revoked.

Section 3. This Order shall become effective upon signing.

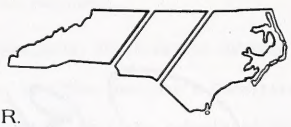
Done at Raleigh, North Carolina, this the 12th day of May, 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 9

WHEREAS, there is a recognized need to augment effective options for coping with persons served by the several segments of the Criminal Justice System in North Carolina; and

WHEREAS, appropriate use of well trained and supervised volunteers may serve as one such effective coping option in the Criminal Justice System; and

WHEREAS, the personal and continuing leadership of the Governor is most important to achieve necessary confidence in and coordination of the many citizens, groups, and organizations desiring to volunteer their services to the Criminal Justice System; and

WHEREAS, creating a council of citizens and professionals, knowledgeable about volunteering and/or the many facets and complexities of the North Carolina Criminal Justice System would aid the Governor in providing the most effective personal leadership to such coordination and augmentation of volunteers in the Criminal Justice System,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is hereby created in the Governor's Office of Citizens Affairs the Council on Volunteers for the Criminal Justice System composed of twenty-one (21) members which shall have the following duties and responsibilities:

(1) To help coordinate and assist in the development and promotion of volunteer groups in the Criminal Justice System, with an emphasis on low income and minority segments of our population;

(2) To act as advisor to the Director of Criminal Justice Volunteer Services who is located in the Governor's Office of Citizens Affairs;

(3) To assist in exploring the implementation of the recommendation of the Legislative Commission on Correctional Programs regarding a non-profit, private, mechanism to expand effective voluntarism in the Criminal Justice System.

Section 2. The Council shall serve for a term of two years and shall be appointed in the following manner:

(1) Sixteen (16) members of the Council shall be appointed by the Governor who will also designate the chairman;

(2) two (2) members of the Council shall be appointed by the Secretary of the Department of Correction;

(3) one (1) member of the Council shall be appointe by the Secretary of the Department of Human Resources, one (1) member shall be appointed by the Secretary of the Department of Crime Control and Public Safety, and one (1) member snall be appointed by the Director of the Administrative Office of the Courts.

Section 3. The Council in conjunction with the Director of Criminal Justice Volunteer Services shall be responsible for soliciting necessary funds and resources to further the purposes of this order. To the extent practical such funds and resources shall come from grants, contributions and gifts. The Governor's Office of Citizen Affairs shall be responsible for providing space and equipment for the Director of Criminal Justice Volunteer Services.

Section 4. This order shall become effective immediately.

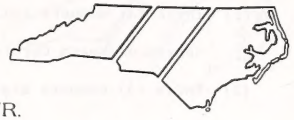
Done in Raleigh, North Carolina, this the 28th day of June, 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 10

WHEREAS, Section 308 of the Federal Coastal Zone Management Act requires designation of lateral state boundaries across the Outer Continental Shelf and describes a mechanism for establishing such boundaries; and

WHEREAS, while the stated purpose of such designation is to provide a mechanism for allocation of funds to offset any adverse economic impact of energy development of the Outer Continental Shelf, the precedent set may carry over in the future to fisheries allocations, funds for fisheries research, allocations of seabed resources, or other issues which could profoundly affect North Carolina; and

WHEREAS, North Carolina's lateral boundary with Virginia has been established by statute and ratified by the Congress, but North Carolina's lateral boundary with South Carolina is undetermined; and

WHEREAS, South Carolina has created a Joint Legislative Boundary Commission to ascertain and settle boundary issues with Georgia and North Carolina,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is hereby created the North Carolina Boundary Commission which shall have the following duties and responsibilities:

(1) To ascertain the seaward lateral boundary issues that exist between the State of North Carolina and the State of South Carolina.

(2) To serve as the official negotiating body in settling North Carolina's seaward lateral boundary issues with South Carolina.

Section 2. The Commission shall be composed of nine (9) members to be appointed by the Governor in the following manner:

(1) Three (3) members shall be members of the Senate of North Carolina, 1977 Session.

(2) Three (3) members shall be members of the House of Representatives of North Carolina, 1977 Session.

(3) Three (3) members shall be representatives of state and local governments.

Section 3. The Governor shall designate the chairman of the Commission.

Section 4. The terms of the members of the Commission shall begin upon the signing of this Order. Members shall serve until August 4, 1977, or until the lateral seaward boundary between North Carolina and South Carolina is satisfactorily negotiated, or until the Governor shall determine that the services of the Commission and/or its members are no longer needed.

Section 5. The Department of Natural Resources and Community Development shall provide staff support, other than legal, to the Commission. Members of the Commission shall be reimbursed by the Department for expenses pursuant to G.S. 138.5. The Department of Justice shall provide legal staff support to the Commission.

Section 6. This Order shall become effective immediately.

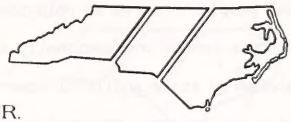
Done in the City of Raleigh, this the 7th day of July, 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 11

WHEREAS, there is a recognized need to restore citizen confidence in the operation and viability of government; and

WHEREAS, this restoration can best be accomplished through greater citizen awareness of and personal involvement in state and local government programs, service and activities, as well as through involvement in private, non-profit service organizations; and

WHEREAS, there is a recognized need for technical assistance in developing these programs and activities; and

WHEREAS, appropriate use of professionally and technically skilled volunteers may serve as one such option in providing this technical assistance; and

WHEREAS, the personal and continuing leadership of the Governor is most important to achieve necessary confidence in and coordination of the many citizens, groups, and organizations desiring to volunteer their services in the provision of technical assistance; and

WHEREAS, creating a task force of citizens and professionals, knowledgeable about volunteering or the many facets and complexities of their various professions,or both, would aid the Governor in providing the most effective personal leadership to such coordination and augmentation of volunteers to provide technical assistance,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is hereby created in the Governor's Office of Citizen Affairs the Task Force on Technical Assistance to be composed of fifteen (15) members, which shall have the following duties and

responsibilities:

(a) To help recruit technically and professionally skilled people to serve as volunteers;

(b) To advocate use of professionally skilled volunteers by state and local government agencies and private, non-profit organizations;

(c) To act as advisor to the administrator of the volunteer technical assistance project housed in the Governor's Office of Citizen Affairs.

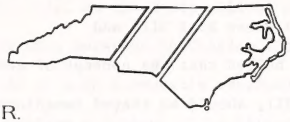
Section 2. The Task Force on Technical Assistance shall serve for a term of one (1) year and shall be appointed by the Governor who will also designate the chairperson.

Section 3. This Executive Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 27th day of July, 1977.

GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 12

WHEREAS, the maintenance of a strong and viable judiciary is essential to the protection of the rights and freedoms of the citizens of the State of North Carolina; and

WHEREAS, an independent judiciary is indispensable to the preservation of the judicial branch as one of the coequal branches of the government of the State of North Carolina; and

WHEREAS, judges of the General Court of Justice should be selected for office solely upon the basis of personal and professional fitness to administer right and justice wisely, according to law, and without favor, denial, or delay to all persons who come into the courts; and

WHEREAS, the selection of Superior Court Judges should be free, so far as may be, from the influences and necessities of partisan political activity; and

WHEREAS, under the Constitution and laws of the State of North Carolina the Governor is authorized to fill by appointment certain vacancies in judicial offices; and

WHEREAS, it is my firm belief that only the most qualified, conscientious and dedicated persons available should be appointed to serve the public as judicial officers; and

WHEREAS, the Administration of Justice Study Committee of the North Carolina Bar Association has spent many hours, during many months, promulgating a plan for the nonpartisan selection of judges, with the benefit of previous studies done by the former North Carolina Courts Commission and other study commissions; and

WHEREAS, said plan was introduced in the 1977 General Assembly as House Bill 311 and drew strong support from legislators and continues to have the strong support of numerous civic and service organizations and the general public; and

WHEREAS, it is my belief that the high quality of the judiciary of the State of North Carolina can best be maintained by using, in aid of the constitutional discretion reposed in the Governor, a nonpartisan selection plan similar to that set forth in House Bill 311; and

WHEREAS, it is my belief that the concept of merit selection of judges, as suggested in House Bill 311, should be tested immediately by first applying the concept to one level of the judicial branch; and

WHEREAS, it is my belief that the nonpartisan selection of Superior Court Judges would best suit this purpose;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. There is hereby created the Judicial Nominating Committee for Superior Court Judges which shall consist of thirty-four members to be selected as follows:

(a) Thirteen citizens who are not licensed to practice law in the state, no less than three of whom and no more than four of whom shall be residents of the same judicial division of the state, to be appointed by the Governor.

(b) Thirteen attorneys licensed to practice law in the state, no less than three of whom and no more than four of whom shall be residents of the same judicial division of the state, to be appointed by the Chief Justice of the Supreme Court of North Carolina.

(c) Four citizens who are not licensed to practice law in the state, each a resident of a different judicial division of the state, two to be appointed by the President Pro Tempore of the Senate and two by the Speaker of the House of Representatives.

(d) Two attorneys licensed to practice law in the state, one to be appointed by the President Pro Tempore of the Senate and one by the Speaker of the House of Representatives.

(e) Two members of the Supreme Court of North Carolina, one of whom shall serve as Chairman of the Committee, and another, who shall serve in the absence of the Chairman as Chairman Pro Tempore of the Committee, each to be appointed by that court.

(f) Exclusive of the Chairman and Chairman Pro Tempore, each member of the Committee shall be a resident of a different judicial district of the state, as the state will be divided into thirty-two judicial districts, pursuant to Chapter 1130 of the 1977 Session Laws. The removal of such a member's residence from the district of appointment creates a vacancy to be filled from that district as provided in Subsection (g) of this Section. To insure the required distribution of members among the judicial districts, appointments of such members other than the Chairman and Chairman Pro Tempore shall be made in the following sequence by the appointing authorities indicated:

(i) The Governor shall first make the appointments provided in Subsection (a).

(ii) The Chief Justice of the Supreme Court shall then make the appointments provided in Subsection (b).

(iii) The President Pro Tempore of the Senate shall then make the appointments provided respectively in Subsections (c) and (d).

(iv) The Speaker of the House of Representatives shall then make the appointments provided respectively in Subsection (c) and (d).

(g) The Chairman and Chairman Pro Tempore shall serve at the pleasure of the Supreme Court. All members other than the Chairman and Chairman Pro Tempore shall serve for a period of one (1) year or until earlier termination of this Committee by subsequent Executive Order. Upon the occurrence of a vacancy prior to expiration of a term, the vacancy shall be filled by the then incumbent in the office of the appointing authority that made the initial appointment. A member appointed to fill a vacancy occurring prior to the expiration of a term serves for the remainder of the unexpired term. Successor members appointed shall be of the same category and from the same district as the initial appointees. No member of the Committee other than the Chairman and Chairman Pro Tempore is eligible for appointment to a judicial

office of this state that is created or vacated during the member's service on the Committee and for a period of six months thereafter.

(h) While engaged on official business, a member of the Committee is entitled to such per diem and reimbursement for travel and subsistence as may be authorized for members of State Boards and Commissions generally.

Section 2. The function of the Judicial Nominating Committee is to identify and nominate for appointment those persons most highly qualified personally and professionally to be Superior Court Judges without regard to any partisan political considerations. To accomplish this purpose the Committee shall be divided into four panels, as herein below provided:

(a) In considering and making nominations for Superior Court Judges, the Chairman and Chairman Pro Tempore and all members of the Committee who are residents of the judicial division of which the judge to be appointed is a resident shall exercise the powers of the Committee in respect to that particular judgeship.

(b) Subject to the provisions of this Order, the Committee may direct meetings and public hearings to be held anywhere within the state; publicize vacancies in judicial offices and solicit declarations of availability therefor; adopt rules of procedure for the exercise of its powers and take any other actions necessary and proper to the accomplishment of its functions.

(c) Panels of the Committee shall meet on call of the Chairman, Chairman Pro Tempore, or a majority of the members of the panel. All calls for meetings shall be upon reasonable notice to all members entitled to participate. Meetings of any of the panels of the Committee shall be presided over by the Chairman, or in his absence, the Chairman Pro Tempore. The Chairman or Chairman Pro Tempore presiding shall vote only when necessary to break tie votes of the members of the panel present. A simple majority of the members constituting the nominating panels constitutes a quorum for exercise

of the panels' powers; but no nomination may be made except upon the concurrence of at least a majority of the members of a nominating panel authorized to make a particular nomination.

(d) Each panel shall elect a secretary from among its members.

(e) The Administrative Office of the Courts or the Department of Crime Control and Public Safety shall assign adequate staff to expedite the work of the Committee. The Governor shall name an Executive Secretary for the Committee.

Section 3.

(a) Any person who is eligible to hold the office of Superior Court Judge may file with the Judicial Nominating Committee, in accordance with its rules, a written declaration of availability for appointment to such office. Only persons who have so filed may be nominated by the Committee.

(b) For any vacancy in the office of Superior Court Judge, the Committee shall nominate no less than three (3) nor more than five (5) persons.

(c) Full consideration of minority and female applicants is encouraged.

(d) Nominations for existing vacancies must be submitted to the Governor within sixty (60) days following the appointment of the last member of the Committee. Thereafter, nominations may be submitted to the Governor not more than sixty (60) days in advance of mandatory retirement of a judge; and all nominations shall in any event be submitted not later than sixty (60) days after a vacancy occurs. Should the Committee fail to submit to the Governor nominations within the time limits herein prescribed, the Governor may proceed to fill the vacancy. Nominations by the Committee shall be certified to the Governor over the signature of the Chairman or the Chairman Pro Tempore.

(e) To assist the Committee, the Administrative Officer of the Courts shall notify the Committee of the imminence of vacancies in Superior Court Judgeships occurring for any reason known to them in advance of their occurrence, and shall notify the Committee of other vacancies as soon as is practicable.

Section 4. Forthwith upon receipt of nominations from the Judicial Nominating Committee, the Governor shall cause the identity of the nominees to be made public by any appropriate means. Within thirty (30) days after receipt of nominations or the occurrence of a vacancy, whichever event last occurs, the Governor shall appoint one of the nominees to fill the vacancy for which nominated.

Section 5. This Executive Order shall apply to Special Superior Court Judges, provided, however, that the full Judicial Nominating Committee shall make the nominations for vacancies in the office of Special Superior Court Judge.

Section 6. It is understood that this is a voluntary merit selection process for Superior Court Judges, and should the Governor later determine that any panel or panels of the Judicial Nominating Committee has not given due consideration to all qualified applicants for the office of Superior Court Judge, in accordance with the procedures set forth by this Executive Order, or that there is any question as to the legality or constitutionality of this Executive Order, then to that extent, nothing contained herein is intended to in any way impair or delegate the constitutional and statutory powers, duties or prerogatives of the Governor in the filling of vacancies in judicial offices by appointment. Also, to that extent, the right to reject any or all of the nominees so selected and recommended is specifically reserved unto the Governor.

Section 7. This Order shall become effective immediately.

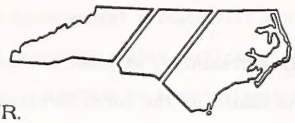
Done in Raleigh, North Carolina, this the 28 day of July, 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 13

GOVERNOR'S COMMISSION ON GOVERNMENTAL PRODUCTIVITY

WHEREAS, Article III, Section 5(10) of the Constitution of North Carolina authorizes and empowers the Governor to make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration; and

WHEREAS, there is a public demand for increased services from state and local government while at the same time there is an equally strong public demand to reduce the tax burden; and

WHEREAS, persistent inflation has intensified public concern in regard to the performance and cost of government at all levels; and

WHEREAS, it is reasonable for the general public to expect government to be effectively and efficiently managed in such manner as to justify their trust and confidence; and

WHEREAS, governmental productivity improvement is a highly complex and time consuming task and therefore requires concentrated attention from persons with in-depth successful management experience and diverse technical and academic background;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is created the GOVERNOR'S COMMISSION ON GOVERNMENTAL PRODUCTIVITY (hereinafter referred to as "The Commission"). The Commission shall carry out the mission and exercise the functions hereinafter prescribed.

Section 2. The Commission shall consist of not more than 21 members, all of whom shall be appointed by the Governor and shall serve for a term of 2 years beginning upon the execution of this order. The Governor will designate the chairman.

Section 3. The State Treasurer, at least one member of the North Carolina Senate, at least one member of the North Carolina House of Representatives, the Secretary of Administration, the Secretary of Natural Resources and Community Development, the President of the North Carolina Association of County Commissioners (or his designee), and the President of the North Carolina League of Municipalities (or his designee), shall serve as Ex Officio members with a vote. The membership shall be representative of state management, state employees, private business or industry, higher education, and local government.

Section 4. The Commission shall make an annual written progress report to the Governor. The report shall be submitted no later than November 1st and shall include productivity-related matters that should be brought to the attention of, or require action by, the General Assembly.

Section 5. The mission of the Commission shall be to assist the State, and local governmental units within the State, in achieving and maintaining the highest standards of effective and efficient public service.

Section 6. The Commission is authorized to:

(a) Conduct such research as is directly related to the mission;

(b) Encourage and assist units of state and local government in developing their own capability to deal with matters of productivity improvement;

(c) Sponsor, co-sponsor, develop, and/or coordinate information programs designed to inform governmental organizations, employees, and the general public of the meaning and importance of productivity improvement in government;

(d) Advise the Governor and the General Assembly with respect to policy affecting governmental productivity;

(e) Serve as a clearinghouse to collect, review, index, and disseminate information related to new or improved methods, systems, technological developments, equipment, and devices that would stimulate governmental productivity enhancement;

(f) Seek, stimulate, and encourage active participation of state and local governmental agencies in selected research and demonstration projects;

(g) Identify, review, and study existing and proposed laws, policies, regulations, and procedures at the state and federal level which adversely affect the productivity of local and state government;

(h) Identify, review, and study existing and proposed laws, policies, regulations, procedures, ways and means through which the working climate of governmental employees may be enhanced;

(i) Identify and develop incentives to encourage the active participation of employees in state productivity improvement efforts;

(j) Assist state and local governmental agencies in the identification, development, and use of specific productivity indexes and performance evaluation measures;

(k) Support and/or coordinate the institution of a state management development program oriented to the executive, middle, and lower management levels of state and/or local government;

(l) Coordinate an effort to identify pertinent state government training groups and their programs and assist in the development of a unified approach to prioritizing these programs according to user needs and applicability;

(m) Identify ways and means by which state employees can be given the opportunity to participate in productivity enhancement efforts to the maximum possible degree.

Section 7. The Commission is hereby designated as the official state agency dealing with matters of Governmental Productivity Improvement and it shall identify, and establish communications with all pertinent national, regional, state, and local governmental units; and with pertinent professional and private organizations.

Section 8. The Commission may accept for any of its purposes and functions under this Executive Order any and all donations and grants of money of any governmental unit or public agency, or from any institution, foundation, person, firm or corporation and may receive, utilize, and dispose of the same. Any arrangement pursuant to this section shall be detailed in the annual report to the Governor. Any monies obtained pursuant to this section shall be received and disbursed as provided by law.

Section 9. The Department of Administration, subject to the availability of funds, shall provide required staff support, office space, supplies, equipment, furniture, and operating expenses to meet the needs of the Commission. The Commission shall be located within the Department of Administration and the staff shall function under the direction of the Secretary of Administration. The Commission shall report jointly to the Governor and the Secretary of Administration.

Section 10. The Commission may establish special task forces or committees for the performance of specific clearly established tasks after first assuring that sufficient operational funds are available under the provisions of Section 9. Also, it is hereby authorized to appoint to such groups qualified state personnel and/or persons from the private sector.

Section 11. Members of the Commission and its duly authorized task forces and committees shall receive per diem, subsistance, and travel expenses as provided in G.S. 138-5.

Section 12. All executive departments and agencies of the state are hereby directed to give maximum active support and cooperation to the Commission. All other governmental units and pertinent private organizations are hereby urged to give maximum active support and cooperation to the official activities of the Commission.

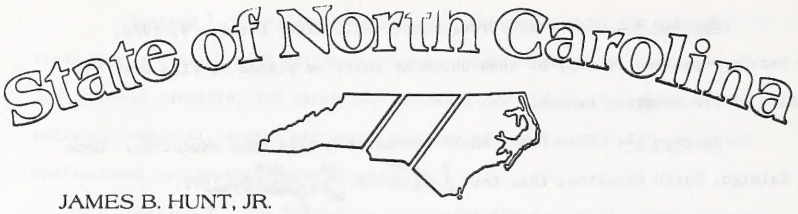
Section 13. Executive Order Number XXI, dated October 9, 1976, is hereby repealed. A copy of this document shall be placed on file with the Office of the Attorney General.

Section 14. This Order shall become effective upon execution. Done in Raleigh, North Carolina, this the 1st day of September 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina





JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 14

WHEREAS, natural phenomena such as hurricanes, floods, tornadoes, severe winter weather, droughts, earthquakes, and man-made disasters such as explosions or major electric power failures are an ever-present danger; and

WHEREAS, potential enemies of the United States now possess the capability of launching attacks and unprecedented destruction upon this State and nation, from land, sea and air; and

WHEREAS, it is the duty of the Department of Crime Control and Public Safety to provide emergency services to protect the public against natural and man-made disasters; and

WHEREAS, it is the duty of the Department of Crime Control and Public Safety to insure the preparation, coordination, and currentness of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes; and

WHEREAS, the North Carolina Emergency War Powers Act, N.C.G.S. 147-33.1 et seq., and the State Civil Defense Act of 1951, as amended, N.C.G.S. 166-1 et seq., confer upon the Governor comprehensive powers to be exercised in providing for the common defense and protection of the lives and property of the people of this State against both man-made and natural disasters; and

WHEREAS, the effective exercise of these emergency powers requires extensive initial planning, continuing revision of plans, and assignment of Civil Preparedness emergency functions prior to the occurrence of an emergency

and the training of personnel in order to ensure a smooth, effective application of governmental functions to emergency operations; and

WHEREAS, these Civil Preparedness emergency functions are intended to be and can be accomplished most effectively through those established activities of State and local government whose normal functions relate to those emergency services which would be needed;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. That in the event that the Governor, in the exercise of his constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of State government to provide protection to the people from natural or man-made disasters or emergencies, including but not limited to wars, insurrections, riots, civil disturbances, or accidents, the Secretary of Crime Control and Public Safety under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized, as provided in North Carolina General Statutes 143B-256.3(c).

Section 2. That the Secretary of Crime Control and Public Safety shall act as Advisor to the Governor on all Civil Preparedness activities under the jurisdiction of the State and its political subdivisions and in this capacity he shall act on behalf of the Governor as required in coordinating Civil Preparedness activities of the departments of the State Government. Every officer and organization of the State Government assigned Civil Preparedness emergency functions by this order or subsequent orders shall perform the said functions subject to the coordination and guidance of the Secretary of Crime Control and Public Safety, or his designee, and in accordance with Civil Preparedness programs and policies of the State and Federal Governments.

Section 3. That State departments are to provide administrative and operational support and personnel for State Civil Preparedness activities in emergency situations as recommended by the Secretary of Crime Control and Public Safety, and upon approval of the Governor.

Section 4. That the heads of all State Government departments shall review, develop plans, advise on, and administer policies, measures, and activities required to carry out an effective total Civil Preparedness Program.

Section 5. That the head of each department, agency, commission or office of State Government that is charged with Civil Preparedness responsibilities shall designate personnel from said department, agency, commission, or office to perform liaison with all other components of State Government on matters pertaining to Civil Preparedness activities.

Section 6. That the heads of State Government departments assigned Civil Preparedness emergency functions shall prepare procedures to procure from governmental and private sources all materials, manpower, equipment, supplies, and services which would be needed to carry out these assigned functions. Each agency of State Government shall cooperate with all other agencies of State Government to ensure the availability of resources in an emergency.

Section 7. That an explanation of the Civil Preparedness emergency functions assigned to each State department, division, subdivision or agency is contained in a document entitled "North Carolina Disaster Relief and Assistance Plan" of July 1, 1976, and the "North Carolina Civil Preparedness Emergency Operations Plan for War" with revisions, and the provisions of this document, including annexes attached thereto, and any revisions thereto, are specifically incorporated herein by reference.

Section 8. That the heads of the departments of State Government and any other agencies designated in said plan are granted the authority and charged with the responsibility to execute upon order by the Governor or the Secretary of Crime Control and Public Safety the Civil Preparedness emergency functions assigned to them in said plan and are authorized to issue Administrative Orders to accomplish this responsibility.

Section 9. That the Secretary of Crime Control and Public Safety is hereby authorized to update and periodically revise said plan to the end that it will be at all times current and consistent with the functions, duties, and capabilities of a given department or agency.

Section 10. That this order shall supersede and cancel all previous Executive Orders on this subject.

Section 11. This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 6th day of October, 1977.

GOVERNOR OF NORTH CAROLINA

Seal of the State of North Carolina



NUMERICAL INDEX TO SENATE AND HOUSE BILLS

RATIFIED NUMBER refers to Chapter Number except when preceded by an R, in which case it refers to Resolution Number.

SENATE BILLS - SESSION 1977

S.B.	Ratified Number	S.B.	Ratified Number	S.B.	Ratified Number
1	R1	84	851	167	R9
2	661	86	76	168	178
5	15	89	1099	170	149
6	31	90	589	173	R4
7	16	91	932	174	197
8	R7	92	41	175	189
15	6	96	1004	180	R8
16	802	102	1114	184	100
17	681	104	R83	185	804
20	565	106	44	186	157
21	R99	107	99	187	385
25	12	108	354	188	158
27	21	109	574	189	935
29	25	110	933	191	128
30	28	111	R57	197	481
31	397	112	54	198	227
35	R2	113	123	199	841
40	501	118	165	202	236
42	102	120	934	204	781
45	518	121	104	206	113
49	9	123	109	210	159
50	R11	125	1119	212	166
55	930	127	R26	213	464
57	803	129	590	215	R27
58	55	131	362	218	1005
59	931	133	103	219	114
62	11	137	69	220	782
63	359	138	194	221	150
64	86	139	195	222	454
65	74	141	196	224	1130
66	446	142	725	229	468
67	148	144	710	230	842
74	87	152	814	231	151
78	662	153	502	233	575
79	75	159	121	235	340
82	303	161	122	237	682
83	519	165	440	238	152

S.B.	Ratified Number	S.B.	Ratified Number	S.B.	Ratified Number
239	711	344	288	433	264
240	153	346	566	434	1121
241	805	347	424	436	1010
243	140	349	545	440	364
244	141	350	576	446	529
245	R12	351	546	448	1011
251	142	352	547	452	R42
252	R28	354	577	453	914
257	190	356	548	455	365
258	311	357	549	458	R43
259	R46	358	591	459	726
262	503	359	757	460	915
264	191	360	713	461	942
270	936	361	714	467	855
271	R41	362	592	468	727
273	179	363	550	472	759
274	199	364	551	475	483
278	180	365	552	476	366
282	1006	366	553	477	1012
283	237	368	554	480	555
284	544	371	215	481	387
286	310	374	938	482	342
290	212	375	939	483	374
291	1007	376	270	484	356
293	363	377	447	485	806
294	228	378	872	486	683
295	267	379	402	496	388
298	386	380	341	497	484
309	229	385	465	498	415
318	871	395	940	499	R33
319	854	401	271	501	425
320	818	402	414	502	485
322	230	405	758	503	844
323	262	406	355	504	815
326	269	407	941	505	272
327	1008	408	520	507	273
328	213	409	504	508	357
329	R22	417	521	509	593
330	1120	418	430	510	594
331	R66	419	431	513	448
333	R23	420	456	515	916
334	712	421	457	517	1013
336	373	424	482	519	R44
337	937	427	843	522	610
341	1109	428	1009	523	449
342	214	432	847	525	856

S.B.	Ratified Number	S.B.	Ratified Number	S.B.	Ratified Number
526	1014	654	685	759	852
527	537	655	567	760	879
530	450	656	1022	768	858
531	1015	657	611	769	639
539	819	658	557	772	1031
540	760	659	809	775	1032
544	578	660	919	779	1033
545	556	662	810	780	640
547	486	665	638	784	812
548	487	666	451	785	1034
558	917	673	596	786	1115
560	943	675	597	793	530
562	426	677	1023	799	880
563	1122	679	811	808	823
564	389	683	1024	810	1035
567	R39	685	784	811	881
568	873	686	820	816	612
577	466	687	920	817	882
578	R85	689	921	819	1110
582	R55	691	506	820	859
583	427	695	783	826	R69
585	874	696	R56	827	853
587	488	697	663	832	1131
589	857	703	432	833	1036
590	807	704	821	835	922
594	489	708	1025	839	763
596	918	709	715	841	860
598	740	714	455	842	861
599	R72	715	686	843	764
603	875	716	876	845	1037
605	505	725	822	847	664
608	1017	728	877	848	R98
609	416	729	1026	850	883
610	684	730	687	855	688
612	595	732	1027	856	665
624	1018	733	598	858	R97
629	R59	734	761	860	R84
630	1019	740	1028	861	689
632	R54	741	878	862	1038
633	R65	744	558	863	884
636	R50	751	1029	865	1039
637	1020	752	R76	872	813
648	1021	754	1030	874	R64
650	808	756	762	879	R78
651	1123	757	741	882	988
652	R77	758	845	886	1040

S.B.	Ratified Number	S.B.	Ratified Number	S.B.	Ratified Number
887	1041	902	1043	909	728
893	824	903	923	910	1124
894	R79	904	1044	911	885
897	1101	905	924	912	1125
898	1042	906	785	915	R75
900	825	907	R80	917	925

HOUSE BILLS - SESSION 1977

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
5	406	97	428	175	383
8	1	99	62	177	29
9	5	100	690	179	35
10	77	102	126	181	42
11	27	103	68	182	1045
12	52	104	64	184	1046
17	R13	109	10	185	58
20	944	113	13	186	949
21	666	114	14	187	950
24	4	115	R3	189	65
25	375	118	53	193	33
29	7	119	70	194	49
33	2	121	37	196	89
34	30	122	R36	197	57
35	129	124	765	203	40
36	3	127	863	204	522
37	17	128	864	205	541
41	22	132	360	209	32
46	78	133	R47	210	R17
47	18	136	92	212	613
48	130	139	327	213	R14
49	19	141	946	214	48
50	945	143	36	215	82
53	667	145	46	220	90
54	154	146	43	221	192
56	R21	147	45	223	88
57	8	148	579	225	83
64	231	150	23	227	469
65	R16	152	71	228	66
69	67	153	93	230	60
70	79	155	947	234	94
72	243	156	61	238	47
77	266	157	131	240	1047
79	63	158	56	242	238
81	125	159	948	243	51
82	91	161	24	244	132
83	599	162	38	245	R5
84	20	163	328	246	R20
85	309	168	39	248	116
90	80	170	155	250	367
91	81	172	34	251	50
92	115	173	26	253	R6

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
254	59	342	668	423	887
256	951	343	R18	426	614
268	R19	345	200	427	274
270	244	348	218	428	330
272	95	350	953	430	398
273	185	351	97	431	407
274	106	352	146	432	767
275	117	354	954	434	220
276	580	355	232	435	318
277	107	356	766	436	245
278	316	357	434	437	888
279	167	360	98	439	1050
280	181	362	317	441	957
281	84	364	292	443	233
282	216	369	955	445	691
283	72	370	582	448	641
284	124	373	161	452	508
288	105	374	133	453	169
295	73	375	384	454	170
296	85	377	186	455	234
297	118	378	R37	457	183
299	108	380	293	458	135
300	127	381	156	459	163
303	143	383	239	461	263
304	290	385	314	463	716
306	376	386	134	464	331
308	559	388	198	465	171
313	96	389	193	467	568
314	144	392	865	468	692
315	160	394	926	469	136
318	291	395	110	470	693
319	581	396	111	471	R10
322	145	398	343	472	304
323	542	399	531	474	172
324	168	400	R24	477	294
325	729	401	R25	478	265
326	119	402	329	479	319
327	217	403	240	481	137
328	313	408	201	482	889
330	1048	409	344	483	202
331	507	412	956	484	221
333	101	413	162	485	R29
335	886	414	182	489	528
336	1049	417	219	490	173
339	952	418	112	491	138
340	120	420	368	492	490

H.B.	*Ratified Number*	*H.B.*	*Ratified Number*	*H.B.*	*Ratified Number*
493	203	564	275	642	251
494	222	565	961	643	970
495	184	566	268	644	670
498	139	569	962	646	277
500	669	570	208	647	278
501	361	571	890	648	279
502	958	572	R34	649	458
503	1051	573	491	650	225
504	768	577	223	653	891
506	509	579	538	654	971
509	345	584	963	656	827
512	R82	585	289	658	828
514	786	586	175	659	252
515	241	587	411	661	418
516	315	589	399	664	R52
517	295	595	441	666	635
518	147	596	320	670	322
522	959	597	176	671	695
523	296	598	964	672	472
524	204	599	276	673	253
526	369	600	R31	674	972
529	164	602	435	677	310
530	174	604	826	678	973
531	242	605	346	680	601
532	960	606	470	681	400
533	R86	607	965	683	211
535	187	612	492	684	254
539	235	613	209	685	332
542	600	614	210	686	297
544	R30	615	412	687	255
545	1052	616	408	691	442
546	377	617	R45	692	323
547	378	618	966	693	226
548	379	620	471	695	256
549	417	621	616	696	1054
550	694	623	249	698	257
551	615	624	510	699	532
553	1053	625	967	700	452
554	246	626	177	701	R48
555	247	630	968	702	R87
556	248	631	493	708	671
557	205	633	969	709	280
559	R15	637	321	710	494
561	206	639	R51	712	816
562	207	640	224	713	258
563	R74	641	250	714	742

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
717	259	796	335	886	394
718	787	798	300	888	349
719	696	803	436	889	603
721	298	805	348	904	769
723	260	806	979	905	984
724	324	808	745	906	350
725	281	809	301	908	985
727	651	811	R70	910	401
728	892	812	980	911	403
729	511	813	433	912	404
731	419	814	697	913	405
732	409	816	336	916	453
733	390	817	602	917	459
739	743	819	337	918	1089
740	893	820	370	919	674
741	495	821	338	920	497
742	1055	822	306	921	654
743	282	824	927	922	655
746	894	825	307	927	473
752	305	826	652	928	1111
755	261	834	393	930	569
756	1056	835	R32	939	1061
757	333	837	285	944	395
758	188	842	981	945	380
760	391	844	339	947	986
761	325	846	443	948	789
762	420	847	444	949	770
763	283	849	302	951	R35
764	1057	853	371	952	R40
766	974	854	1059	953	287
767	392	857	1100	955	351
768	975	858	895	956	866
770	533	860	286	957	352
774	636	861	1060	958	358
775	1126	863	308	959	353
777	284	865	R60	961	987
780	976	866	372	967	1062
781	299	867	982	969	R38
782	744	873	672	971	746
784	326	874	653	974	790
785	334	877	896	975	988
786	496	878	788	976	675
792	977	880	983	977	410
793	1058	882	717	978	1063
794	347	883	437	979	R53
795	978	884	673	985	1113

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
990	560	1058	993	1139	772
992	1064	1059	994	1144	623
995	791	1061	382	1145	624
996	1127	1063	656	1147	539
997	429	1064	995	1148	658
998	698	1065	498	1151	998
1000	460	1068	996	1152	903
1001	928	1069	997	1153	719
1002	1016	1070	643	1154	1081
1003	792	1071	605	1156	1102
1004	990	1072	561	1158	606
1005	570	1073	676	1159	583
1006	512	1074	901	1160	749
1008	461	1075	572	1163	1082
1009	829	1076	573	1164	584
1012	1065	1077	562	1165	476
1015	897	1078	1077	1166	625
1017	991	1079	621	1167	607
1020	474	1089	499	1168	626
1022	R61	1093	867	1169	659
1023	992	1094	514	1171	1083
1024	642	1095	902	1172	563
1025	438	1096	622	1174	516
1026	699	1097	534	1178	R62
1029	1066	1099	718	1179	677
1030	413	1100	1068	1183	732
1032	604	1104	657	1184	848
1034	513	1105	422	1186	R63
1035	543	1106	R49	1189	1084
1036	898	1113	1088	1194	517
1038	830	1115	535	1195	644
1039	381	1116	700	1196	500
1040	475	1118	1078	1202	645
1041	1067	1119	771	1206	832
1042	831	1121	730	1207	701
1043	396	1123	515	1209	1069
1045	478	1124	748	1211	R58
1046	617	1125	467	1212	477
1047	421	1126	462	1213	733
1048	899	1127	1079	1214	773
1050	747	1130	423	1215	627
1051	618	1133	731	1216	904
1052	900	1134	463	1221	564
1054	571	1135	523	1223	720
1056	619	1136	445	1229	628
1057	620	1138	1080	1233	905

H.B.	Ratified Number	H.B.	Ratified Number	H.B.	Ratified Number
1234	439	1310	480	1400	738
1237	1112	1311	633	1401	739
1238	1070	1312	1072	1404	1105
1240	734	1313	907	1406	723
1241	750	1317	647	1408	1106
1242	585	1318	1000	1409	R95
1243	1085	1325	862	1410	650
1244	586	1329	908	1411	778
1246	646	1333	703	1412	1001
1250	536	1334	817	1414	R96
1251	1086	1336	776	1422	1094
1253	R68	1337	794	1426	870
1254	774	1338	834	1431	839
1255	629	1340	795	1432	911
1256	479	1341	587	1435	1128
1257	630	1342	588	1447	R67
1258	631	1345	835	1448	706
1263	775	1347	1104	1452	1073
1265	660	1348	704	1454	1074
1266	678	1350	929	1455	797
1267	702	1352	836	1459	R73
1269	1071	1353	609	1464	540
1274	R89	1356	648	1466	798
1275	524	1357	909	1468	779
1276	868	1358	850	1473	846
1277	735	1359	796	1475	724
1278	608	1360	R92	1479	754
1279	1087	1362	752	1484	799
1280	833	1365	837	1486	840
1281	869	1368	R71	1487	679
1283	R90	1369	721	1491	1107
1284	525	1370	705	1493	912
1288	632	1371	649	1494	755
1289	906	1372	777	1497	707
1291	R91	1373	1117	1498	708
1294	526	1377	R93	1499	756
1295	527	1378	838	1500	1095
1297	751	1379	736	1505	1002
1298	793	1381	R94	1507	709
1299	999	1385	R88	1511	1003
1300	1090	1387	1093	1512	780
1301	1091	1388	722	1513	634
1303	1092	1389	737	1514	1075
1305	637	1394	1118	1515	849
1306	1103	1398	753	1518	1096
1307	1116	1399	910	1519	680

H.B.	Ratified Number
1520	800
1521	1097
1522	1098
1523	R81
1524	1076
1527	801
1531	1129
1532	913
1534	1108

INDEX TO 1977 SESSION LAWS

Suggestions for use: When looking for a local law, look under the name of the particular county, city or town involved. When looking for a law which amends or repeals a certain law, look under "Laws Amended or Repealed".

Chapter

A

Accidents—see Motor Vehicles

Accountants:
Experience requirement 804
Partnership filing of assumed name 384
Public—sunset law 712

Administration, State Department of:
Buildings with cultural significance 998
Children and Youth, Governor's Advocacy Council on— transfer 872
Drug Commission, N. C.—transfer 667
Gasoline and oil inspection program—Highway Fund appropriation 1042
Handicapped, Governor's Council on Employment of the— transfer 872
Human Relations Council employment discrimination 726
Indian Affairs, Commission of—transfer 849
Internship Council, N. C.—creation 967
Jobs for Veterans Committee, Governor's—creation 1032
Land records management program 932
Leases, authority over bid proposals for 485
Lower Cape Fear Water and Sewer Authority grant advance 802
Mentally Ill and Developmentally Disabled, Council for the—creation 822
Office space, State-owned 802
Oil recycling program 802
Sales, leases and rentals of State lands—initiation 425
Secretary's salary 802
Sexual assaults, coordinator of services for victims of 997
State employees meritorious service award system transfer 288
State Personnel, Office of—paralegal classification 821
Veterans Affairs Commission duties 622
Women, Council of the Status of—membership 818
Youth Advisory Council membership, terms 510

Administrative Procedure:
ABC Board rule violations 18, 150
Child Day-Care Licensing Commission subject to Administrative Procedure Act 929
Legislative review of administrative rules/ appropriation 915/1033

Chapter

Adoptions—see Parent and Child

Ad Valorem Taxes—see Taxes and Assessments: Ad valorem property taxes

Advertizing—candidates for public office 856

AFDC—see Social Services: Aid to Families with Dependent Children

Aged:
Assessments, postponement of collection of 203
Division of Aging—see Human Resources, State Department of
Governor's Advisory Council on Aging—see Aging, Governor's Advisory Council on
Homes for the aged—see Medical Services: Nursing Homes
Income tax exemption 315
Misrepresentation of age to gain free tuition 981
Municipal programs 187, 647
Tuition—free at State educational institutions 981

Aging, Governor's Advisory Council on—name change and revision of duties 242

Agricultural Extension Service—employment of persons in their home counties 827

Agriculture:
Bee and Honey Act of 1977 238
Farm products, marketing and branding—sunset law 712
Fertilizers:
Commercial Fertilizer Law, N. C. 303
Sunset law 712
Food, regulation of—sunset law 712
Forests—see that heading
Fruit and vegetable handlers, regulation of—sunset law 712
Grains, adulteration of—sunset law 712
Honey—Bee and Honey Act of 1977 238
Linseed oil, regulation of sales of 42
Meat and poultry processing facilities inspections 706
Meat graders—sunset law 712
Migrant farm workers, burial of deceased 648
Peanuts, marketing—sunset law 712
Pests—see that heading
Poultry, hatcheries, chick dealers—sunset law 712
Sales of agricultural products—security interest in agricultural property 508
Seed Law, N. C.—sunset law 712
Soil Additives Act of 1977 233
Swine disease (pseudorabies) surveillance appropriation 1044

Chapter

Agriculture, State Board of:
Agricultural graders, State service credit for 1038
Liquified petroleum gases, safety standard for 410
Meat and poultry processing facilities, inspections of 706

Agriculture, State Department of:
Animal disease diagnostic laboratory appropriation 994
Commissioner's salary 802
Farmers' markets:
Appropriations 1100
Exemption from governmental sales restrictions 355
Japanese beetle and fire ant program appropriation 1096
Pine mouse research laboratory appropriation 1067
Quail, regulation of pen-raised 905
State Farm Operations Commission re-creation 1122

Airports and Aircraft:
Dare County Airport Authority membership 161
Improvement grants, State airport 802
Lincolnton-Cherryville Airport 200
Lincolnton-Lincoln Airport Authority creation 286
Raleigh-Durham Airport Authority compensation 28
Richmond County Airport Commission 170
State-owned aircraft, use by Speaker and Lieutenant Governor of 802
Unauthorized use of aircraft 919
Wendell-Knightdale Airport Authority creation 689

Alamance County:
ABC board contracts with local law enforcement agency 606
Bingo 491
Board of education land sale 292
Road tax 352

Albemarle, City of—conveyance of property 451

Albemarle Tour—highway signs 504

Alcoholic Beverages:
Alcoholism Research Fund—see Alcoholism
Beer and Wine:
Consumption, regulation by cities and counties of 693
"On Premise" wine permit—sanitation grade 911
Retail sales permits, denial of 669
Wine cocktails served in restaurants 676
Boards, local—volunteer officers 908
Driver training—persons under the influence 116
Driving under influence of—see Motor Vehicles: Alcoholic beverages, driving under influence of
Metric system 176

Chapter

Alcoholic Beverages:—continued
Permits:
Fee increase 977
"On Premise"—sanitation grade 911
Retail sales of wine and malt beverages, denial of permits for 669
Sales without permits 854
Special occasions 668
"Restaurant" definition 149
Sales without permits 854
Stores, donations collected for Alcoholism Research Fund in 618
Transportation—statutory reference correction 586
Volunteer officers, workmen's compensation for 908
Weapons in establishments where alcoholic beverages are sold and consumed 1016
Wines, unfortified—sales in counties and municipalities with ABC stores 182

Alcoholic Control Board, State:
Fees 977
Permits, denial of 669
Rules of—violations 18, 150

Alcoholism:
Research Authority:
Appropriation 961
Donations collected in ABC stores 618
Social Setting Detoxification Center Project allocation 802

Alleghany County:
Ambulance services, garnishment for 64
Bingo and raffles 365
Firearm act, enforcement of 14
Hunting:
Deer 441
Foxes 496
Sam Brown Park 526
Traps 765

Alliance, Town of—boundary change 640

Ambulances (see also Rescue Squads):
Death benefits for ambulance service workers 1048
Fire control funds used for ambulance service by county—validation 131
Headlights, electronically modulated 104
Sunset law 712

Amendments—see Laws Amended or Repealed and Constitution of N. C.

Anatomical Gifts—see Gifts

Chapter

Anatomy, Commission of—unclaimed bodies 458

Andrews, Town of—terms of mayor and aldermen 209

Animals (see also Livestock and Wildlife):
Animal disease diagnostic laboratory appropriation 994
Dogs:
Guide dogs, right to buy or lease premises by persons with 659
Killing human beings 597
Rabies, confinement by local health director of animals with 628

Annexations:
Appeals—technical amendments 148
Proration of taxes 517
Voter registration 752

Anson County:
Ambulance services, garnishment for 64
Board of education election, terms 216
Equalization and review board 284

Antifreeze—sunset law 712

Anti-trust Cases—see Civil Procedure

Appalachian State University—see Colleges and Universities

Apprentices:
Aerial pesticide applicators 1125
Cosmetology 899
Discrimination, sexual 550

Apprenticeship Council—membership 896

Appropriations:
Aging, Division of 960
Alcoholism Research Authority 961
Animal disease diagnostic laboratory 994
Appalachian State University stadium, dormitory, and student support facility 196
Arts program, grassroots 1008
Asa Biggs birthplace 1060
Asheville Health Education Museum 953
Avery County Museum 957
Blandwood 995
Blind, communications system for the 1046
Bridge injury settlements 942
Broad Creek Navigation improvements 982
Budgets:
Capital Improvements Act of 1973:
State University, N. C.—dormitory and parking facility appropriations 195

Chapter

Appropriations:—continued
Budgets:—continued
University of N. C. at Wilmington—dormitory appropriation 197
Capital Improvements Act of 1971:
Elizabeth City State University—dormitory appropriation 194
Capital improvements to State government 681
Capitol building operations 1043
Chaplains:
Prisons 950
Youth Services 949
Charlotte Opera Association 1082
Charlotte Symphony Orchestra, Inc. 1075
Chronic renal disease control program 1078
Code Officials Qualification Board 1073
Communications system for the blind 1046
Correction, State Department of—antirecession funds 423, 802
Cupola and Barker Houses 939, 975
Current operations of State government 802
(Chapter 802 contains numerous special provisions. Below is an alphabetical listing of the captions of these provisions and a citation to the appropriate sections of the act.)
Additional Expense Allowance for Superior Court Judges/Repeal (Sec. 41.1)
Additional Merit Increment/State Employees (Sec. 40.5)
Adjustments in Appropriations/Non-Medicaid Health Programs (Sec. 19)
Adult High School Extension Program (Sec. 36.10)
Aid to Private Colleges/Procedure (Sec. 38, 38.1 & .2)
Airport Improvement Grants (Sec. 48)
Anticipated Tuition Change/Reduce Appropriations (Sec. 36.5)
Artificial Reef Fishing Program/Close Out (Sec. 50.10)
Assistance to Hospital Nursing/Fund Distribution (Sec. 36)
Associate Degree Nursing Program (Sec. 36.15)
Attorney General and Supt. Public Instruction/Salaries (Sec. 42.14 & .15)
Authorization for Administration of 6 1/2% Salary Increases (Sec. 40)
Authorize General Assembly Drafting Staff (Sec. 50.60)
Board of Education Revise Formula Amounts (Sec. 35)
Books and Equipment Appropriations/Revert after One Year (Sec. 32)
Cabinet Secretaries/Salaries (Sec. 42.25)
Certain School Clerk. & Instruct. Personnel/Fund Allocation (Sec. 27)
Child Support Program/Funds (Sec. 50.51)

Chapter

Appropriations:—continued
Current operations of State government—continued
City and County Boards of Education/Expenses (Sec. 39.5)
Clean Water Bonds 1971/Lower Cape Fear Authority Advance (Sec. 50.35)
Clerks of Court/Salaries (Sec. 42)
Comm. Colleges Personnel/Salaries and Longevity (Sec. 44)
Community Mental Health Centers (Sec. 24)
Community Mental Health Programs (Sec. 20)
Consultant Limitations/Exempt Research Triangle Institute (Sec. 50.57)
Contingency and Emergency Fund (Sec. 16)
Courts Attorneys/Salaries Studied and Classified (Sec. 41.6)
Criminal Code Commission/Funds (Sec. 50.53)
Cultural Resources Grants (Sec. 47)
Direct Patient-Care Benefits/No Change to Indirect Benefits (Sec. 22)
Driver Training and Safety Education Fund/Advances (Sec. 31)
Eliminate Certain Special Funds (Sec. 8, 9 & 10)
Employer Salary-Related Contributions (Sec. 45)
Exempt Personnel Act Salary Schedule Filing/Repeal (Sec. 15.20)
Federal Antirecession Funds/Appropriation (Sec. 12.5)
Federal Revenue Sharing/Operating Appropriation (Sec. 12.10)
Firemen's Pension Fund/Benefits (Sec. 50.72 & .73)
Fountain School/Program (Sec. 25.29)
Full-Time Equivalent Teaching Positions (Sec. 34)
Funds for Needy Students from Univ. Tuition Increases (Sec. 39.10)
Further Suspend Personnel Policies (Sec. 36.25)
Grants to Hospitals/Establish Certain Residencies (Sec. 39)
Grants to Non-State Health and Welfare Agencies/Audits (Sec. 21)
Higher Education Academic Personnel/Salaries and Longevity (Sec. 43)
Highway Fund/Adjustments to Reflect Actual Revenue (Sec. 6)
Highway Fund/Adjustments to Reflect Federal Funds Changes (Sec. 7)
Highway Fund/Allocations by Transportation Controller (Sec. 4)
Highway Fund/Limitations on Transfers (Sec. 5)
Highway Fund/No Transfers to Driver Training Program (Sec. 11)
Highway Fund/76-77 Credit Balance to Secondary Maintenance (Sec. 6.1)
Hudson Prison Unit/Community Advisory Board (Sec. 25.31)
Insurance and Fidelity Bonds (Sec. 13)
Insurance Auditors/Expense Change (Sec. 50)
Insurance Dept. Special Fund/Transfer to General Fund (Sec. 50.1)
Judicial Branch Officials/Salaries (Sec. 41)

Appropriations:—continued
Current operations of State government—continued
Juvenile Probation and Aftercare/Funds (Sec. 50.50)
Local Human Resources Agencies/Rules (Sec. 23)
Magistrates/Increase Maximum Salary (Sec. 41.3)
Maids and Janitors, and Principal's Clerks/Salary Increases (Sec. 29)
Medicaid Schedules (Sec. 17)
Medium Custody Prisoners/Work on the Roads (Sec. 25.35, .36 & .37)
Morrison School/Transfer to Department of Correction (Sec. 25.30)
Most of Council of State, Including Lt. Governor/Salaries (Sec. 42.6 through 42.12)
Moving Expenses of State Employees (Sec. 15)
National Guard/Prohibit Transfer Excess Tuition Funds (Sec. 50.25)
Navigation and Pilotage Commissions/Management by Commerce (Sec. 50.46)
New Method of Counting Full-Time Equivalent Students (Sec. 35.5)
New Office Equipment/Use Surplus Property Where Available (Sec. 15.10)
Nonelected Dept. Heads/Governor & ABC Change Salaries 20% (Sec. 42.20)
Non-Medicaid Medical Services/State Programs (Sec. 18)
North Carolina Symphony Grants/Administration (Sec. 49)
Occupational Education/Man-Months (Sec. 31.10)
Oil Recycling Program and Facility (Sec. 50.55)
Older Americans Funds/Match Other Programs (Sec. 25)
Operating Appropriation/Not Used for Recreation Extension (Sec. 33)
Pilot Project on Alcoholism/Social Setting Detoxification (Sec. 25.17)
Ports Authority/Personnel Control by Secretary of Commerce (Sec. 50.45)
Public Defenders/Salary Requirement Change (Sec. 41.2)
Public Education Health, PE, & Athletics/Fund Allocation (Sec. 28)
Public School Employees/Longevity (Sec. 44.1)
Public School Librarians/No Funding (Sec. 31.20)
Reading Program/Three Alternatives (Sec. 31.5)
Recall Funds Due to Underenrollments (Sec. 35.10)
Reserves/Not to be Used to Increase Later Annual Obligations (Sec. 14)
Rest Homes (Sec. 19.5)
Retain Polk Youth Center (Sec. 25.25)
Salary Adjustment Appropriations/Authorized Transfers (Sec. 46)
School Bus Mechanics, & Property & Cost Clerks/Added Step (Sec. 40.6)
School Dropouts/Fund Allocation and Extended Day Programs (Sec. 31.15)

Chapter

Appropriations:—continued
Current operations of State government—continued
Sec. of Correction/Report on Data Processing and Probation (Sec. 25.20)
Secretary of Human Resources/Report on Regional Offices (Sec. 25.5)
Secretary of State/Change Publications Costs (Sec. 50.30 & .31)
Shoulder Paving/Study by Department of Transportation (Sec. 50.15)
Six and One-Half Percent Increase/EPA Legislative Employees (Sec. 40.3)
Special Funds/Authorization for Expenditures (Sec. 12)
Specialty Hospitals/Operations Study (Sec. 25.15)
State-Owned and -Operated Office Space/Payment for Use (Sec. 15.5)
State Vehicles and Aircraft/Lt. Governor and Speaker (Sec. 50.61)
State Wildlife Fund/Surplus Receipts (Sec. 50.7)
Study Commissions/Funding Sources Must be Identified (Sec. 15.15)
Teachers' and State Employees' Retirement System/Benefits (Sec. 50.65 through 50.71)
Textbook Appropriations/Not Revert (Sec. 26)
Tree Cones and Seeds/Some Appropriated Funds Not Revert (Sec. 50.5)
Use of Federal Funds (Sec. 15.25 through 15.28)
Utilities Commission/Executive Director (Sec. 50.40)
Wake Forest and Duke Med. School Assistance/Funding Formula (Sec. 37)
Youth Services/Textbooks from Board of Education (Sec. 30)
Cystic fibrosis program 1087
Dental health program, preventive 976
Deputy clerks of court 940
De Rosset House 1055
District attorneys, assistant 1119
District court judges' retirement credit 1120
East Carolina University stadium expansion 196
Edmondston Diary publication 1063
Energy conservation loans—Housing Finance Agency 1083
Farmers' markets 1100
Fire Commission, State 1064
Food stamps pilot programs 1081
Forest Development Act implementation 1077
Forest fire tractor plow units:
Granville County 1057
Hoke and Cumberland Counties 948
Northampton County 948
Wilson County 966

Chapter

Appropriations:—continued
Forestry Service headquarters buildings:
Alamance County 1020
Macon County 993
Northwestern N. C. 964
Wilkes County 963
Fort Defiance, Inc. 1052
Fort Macon State Park 1079
Foster-care board rate increase 1015
Franklin House 974
Gasoline and oil inspection program—Highway Fund appropriation 1042
General Assembly:
Biographical directory 1074
Legislative review of administrative rules 1033
Portraits of legislative officers 1074
Governors' portraits exhibits 1019
Granville County Historical Society 1066
Grassroots arts program 1008
Guardianship proceedings 958
Harmony Hall 1058
Hearing Impaired, State Council on 991
Henderson, City of—Sandra Dupree trial reimbursement 1062
Historical writings revolving fund 1085
Historic Edenton, Inc. 939, 975
Historic Preservation Fund, Inc. 1049
Historic sites survey in Fayetteville and Cumberland County 1071
Holly tree site 941
Housing Finance Agency—energy conservation loans 1083
Insurance, State Department of—work overload 1076
Investigatorial assistants 969
Jacob W. Holt House 1068
James Iredell House 938
Japanese beetle and fire ant program 1096
Jobs for Veterans Committee, Governor's 1032
Judicial districts, divided—district attorneys and judges 1130
Jury charges, development of standard 1119
Keep North Carolina Beautiful, Inc. 1072
Land records management program 932
Law Enforcement Officers Liability Insurance Study Commission 979
Library media personnel—public schools 1088
Library resources program 990
Magistrates:
Authorized 947
Salary classification plan for 945

Chapter

Appropriations:—continued
Malcolm Blue Historical Society 1080
Marks House 1045
Medicaid third party collection operation 1095
Medical Cost Containment, Legislative Commission on 968
Mitchell Community College construction 962
Morton Pritchard Alcoholic Rehabilitation Farm 1091
Mountain Gateway Museum 970
Museum of Life and Science, N. C. 1086
Navigation projects 985
New Bern Academy 1051
Newbold-White House 937
N. C. A.&T. State University dormitories, union, married student housing and faculty housing 196
Northeastern N. C. historic sites 1084
Occupational Safety and Health Act:
Consultants 1040
Equipment 1041
Old Salem 951
Orange County Correctional Center—education program 1035
Outdoor historical dramas 986, 996
Pine mouse research laboratory 1067
Pseudorabies (swine disease) surveillance and prevention 1044
Public health inspection services 976
Raleigh Mall 1022
Reading clinic—U. N. C. Board of Governors 1094
Reserves—limitations on expenditures 802
Richmond Hill Law School 1053
Roanoke Canal lock house 1023
Regional education centers—children with special needs 934
Rockford Preservation Society 943
Sandra Dupree trial reimbursements 1062
School bus injury payments 1024
Seaboard Coastline Building 1092
Sexual assaults, coodinator of services for victims of 997
Shiele Museum of Natural History and Planetarium, Inc. 954
Soil mapping grants 1098
Southern Railway Spencer Shops 1093
Special Olympics 1059
Stagville Preservation Center 1034
State office building at Fayetteville 1027
State Parks Study Commission 1030
State University, N. C.—Reynolds Coliseum and Thompson Theatre 196
Stonewall 1054

Chapter

Appropriations:—continued
Sunset law implementation 1018
Superior court judges 1119
Swine disease (pseudorabies) surveillance 1044
Symphony Society, N. C. 1006
Tar Heel Junior Historian Association 980
TEACCH Centers 955
Theatres, nonprofit professional 986, 996
Training schools, community based alternatives to 1010
Western Carolina Specialty Hospital renovation 1017
University of N. C.:
Chapel Hill:
Family medicine building planning 1014
Union and parking deck 196
Charlotte—dormitory, service building, and parking lot 196
Greensboro—recreation center, handball courts, renovations, and married student housing 196
Wilmington—parking lot, union, and dormitory 196
Vance County—Sandra Dupree trial reimbursement 1062
Wilkes Community College construction 956
William King House 1056
Wrightsville Beach berm improvements 1026
Youth Services—incentive pay for committed juveniles 1061
Youth Unlimited, Inc. 1005

Architects:
Conflicts of interest 730
Professional corporations 855
Sunset law 712

Armed Forces (see also Militia and Veterans):
Guardians of children of servicemen, sexual discrimination in selection of 714
Military family protection plans—inheritance tax exemption 1025
National Guard, N. C.—see Militia
Prisoners' of war license plates 227

Armed Robbery—see Crimes

Arrests—see Criminal Procedure

Art—see Cultural Resources

Ashe County:
Ambulance services:
False requests 96
Garnishment 138

Chapter

Ashe County:—continued
Ambulance services:—continued
Obtaining services without intention to pay 144
Firearms, discharge on highways of 13
Hunting deer 441
Mineral interests 751

Asheville, City of:
Civil service commission 415, 530
Policemen and firemen retirement 188
Tax records 214

Asheville Health Education Museum, Inc.—appropriation 953

Assaults—see Crimes

Assessments—see Taxes and Assessments

Associations—see Corporations

Athletic Contests:
Dangerous activities 772
Weapons 1016

Attorney General—see Justice, State Department of

Attorneys at Law:
Bar, N. C. State—see that heading
Nonprofit corporations—legal services for indigents 841
Nonresident attorneys, practice before Industrial Commission by 430
Police information network, access to 836
Representation of criminal defendants 1117
Utilities Commission, attorneys as members of 913

Auctions (see also Sales):
Civic clubs 1115
School board sales of personal property 803
Sunset law 712

Audiologists—see Licenses and Licensing

Auditor, State—salary 802

Automobiles—see Motor Vehicles

Avery County:
Banner Elk, Town of—see that heading
Hunting boar 68
Pistol permits 35
Registry correction 608
Trapping 765
Wound reports 843

Chapter

Avery County Museum—appropriation 957

B

Bail—see Surety Bonds

Ballots—see Elections

Banks and Banking (see also Credit Unions and Savings and Loan Institutions):
Accounts with right of survivorship 671
Examiners, bank 684
Holidays 99
Nonresident banks' payment of State bonds 405

Banner Elk, Town of—ABC election 177

Barbers—sunset law 712

Bar, N. C. State:
Authorization to possess and convey real property 841
Membership fee 841
Sunset law 712

Bastardy—see Parent and Child: Illegitimate Children

Bath Outdoor Drama—appropriation 986

Battleship Commission:
Loan authorization 1039
Organization and duties 741

Beaufort County:
Ambulance services:
Garnishment 138
Obtaining services without intention to pay 63
Hunting bear 90
Wound reports 843

Bees—see Agriculture

Belville, Town of—incorporation 84

Bertie County—hunting deer 441

Bicycles:
Bicycle Committee, N. C.—creation 1021
Bikeways, gas tax funds for 808
Regulation 1123

Bids—public contracts:
Changes in construction during project 619
Less than three bids 644
Minimum amount for bid requirement 619
Withdrawal of erroneous bids 617

Chapter

Birth:
Certificates:
Fees 310, 1110
Legitimation proceedings 83
Paternity suits 83
Concealing birth of child, sex discrimination in 577

Birth Control—see Sterilization

Black Mountain, Town of:
Annexation 422
Town attorney 258

Bladen County:
Fire protection district tax expenditures 800
Pistol permits 35
Traps 600

Blind, Commission for the—conflicts of interest 581

Blind, Consumer and Advocacy Advisory Committee for the—creation 842, 1050

Blind Persons—see Handicapped Persons

Blood—donation by seventeen-year-olds 373

Boards of Commissioners—see Counties: Commissioners

Boards of Education—see Education, Boards of

Boards of Elections—see Elections and Counties

Boards of Health—see Public Health

Boats:
Certificate replacement fees 566
Noise restrictions 737
Safety regulations 424
Unauthorized use of motorboats 919

Boiling Spring Lakes, Town of—charter 62

Bolton, Town of—charter 271

Bonds and Notes (see also Surety Bonds):
Clean water bonds referendum 677, 802
General obligation bond anticipation notes, extension of payment period for 404
Highway construction bonds referendum 643
Hospital authorities tax exemption 268
Housing authorities 784
Industrial and Pollution Control Facilities Financing Act amendments 719

Chapter

Bonds and Notes (see also Surety Bonds):—continued
Local Government Finance Act bonds and notes:
Legal investments 403
Street improvements 811
Refunding bonds 201
State bonds payable at banks outside N. C. 405

Boundaries, State—southern lateral seaward boundary with South Carolina 342

Brevard, Town of—ABC board contracts with local law enforcement agency 728

Bridges—maximum safe load capacity 306

Broad Creek—navigation improvement appropriation 982

Brunswick County:
Annexations 27
Court sessions held at new county seat 678
Belville, Town of—see that heading
Board of commissioners election, membership 444
Board of education election, membership 443
Boiling Spring Lakes, Town of—see that heading
Malt beverage and unfortified wine elections in towns with populations under 500 399
Navassa, Town of—see that heading

Budgets (see also Appropriations)—balanced State budget 690

Buffalo—see Wildlife

Building Code, State—enforcement:
Generally 531
Insulation and energy utilization standards 703

Buncombe County:
Annexations moratorium 60
Asheville, City of—see that heading
Bingo 491
Black Mountain, Town of—see that heading
Board of commissioners, powers and duties of chairman of 54
Board of education nomination, election 484
Elections, use of absentee ballots in 129
Eliada House—appropriations by commissioners 137
Incorporations moratorium 60
Motor vehicle license tax 433
Tax records 214
Wound reports 31

Burglary—see Crimes

Chapter

Burial Associations, Mutual—see Insurance

Burke County:
Hunting:
Boar 68
Foxes 636
Morganton, Town of—see that heading
Rutherford College, Town of—see that heading
Valdese, Town of—see that heading

Buses—see Motor Vehicles, and Schools

C

Cabarrus County:
Board of commissioners elections, terms 205
Concord, City of—see that heading

Caldwell County:
ABC profits distribution 32
Ambulance services, obtaining—without intention to pay 63
Granite Falls, Town of—see that heading
Hunting:
Boar 68
Foxes 636
Lenoir, City of—see that heading

Camden County:
Board of commissioners election, terms 302
Board of education election, terms 173
Coroner 94
Land lease 280

Cameron, Town of—beer and wine elections 371

Campbell College—see Colleges and Universities

Capacity:
Defendants:
Confidentiality of report 25
Specificity of motion raising issue 860
Guardianship of incompetent adults, rewrite of laws concerning 725

Cape Fear River:
Navigation and pilotage commission—sunset law 712
Pilotage charges 700

Capital Building Authority, N. C.:
Dorothea Dix Hospital 750
Human Resources, Dept. of 750

Capital Improvements—see particular category and Appropriations

Chapter

Capital Punishment—see Crimes

Carpools—see Motor Vehicles

Carrboro, Town of:
Insurance 324
Zoning powers 260

Carriers—see Utilities

Carteret County:
ABC board additional members 634
Black bear, exemption from State law for 565
Trapping 695

Cary, Town of—charter amendments 816

Castalia, Town of—board of commissioners terms 381

Caswell County:
Deeds, recorded 391
Maps 325
Motor vehicle license tax 420
Pistol permits 347
Yanceyville, Town of—see that heading

Catawba County—Conover, Town of—see that heading

Cedar Cliff—see Ferguson Mountain

Cemeteries:
Graves, relocation of 311
N. C. Cemetery Act amendments 686

Chadbourn, Town of—powers of board of commissioners 211

Chapel Hill, Town of:
Charter 330
Telephone company's former employees' retirement benefits 1007
Voter registration of Durham County residents 274

Charge Accounts—see Sales

Charities (see also Corporations: Nonprofit):
Alcoholism Research Fund—donations collected in ABC stores 618
Solicitations 877
Trusts—conformity with Internal Revenue Code 760

Charlotte, City of:
Auditorium-Coliseum-Civic Center Authority terms 140
Carolina's Carrousel, Inc. annual appropriations 252
Motor vehicle license tax 433
Park and Recreation Commission:
Abolition by city council 179
Terms 141

Chapter

Charlotte, City of:—continued
Sale of corporate stock with Cabarrus Memorial Hospital 134

Charlotte-Mecklenburg Board of Education:
Employees' pay day 254
Mileage allowance 445

Charlotte-Mecklenburg Planning Commission—capital projects 142

Charlotte Opera Association—appropriation 1082

Charlotte Symphony Orchestra, Inc.—appropriation 1075

Charters—see particular category

Cherokee County:
Andrews, Town of—see that heading
Murphy, Town of—see that heading
Pistol permits 35
Subdivisions 253

Cherryville, Town of—airport authorization repeal 200

Child Day-Care Licensing Commission:
Injunctive powers 4
Sunset law 712

Children—see Minors

Children and Youth, Governor's Advocacy Council on—
transfer 872

Chiropractors (see also Physicians and Surgeons):
License fee 922
Practice defined and patients' freedom of choice 1109
Sunset law 712

Chowan County:
Bear Swamp Drainage District Number Three—validation of proceedings 427
Bingo 527

Churches—see Religious Institutions

Cities and Towns—see Municipal Corporations

Civil Air Patrol—see Civil Defense

Civil Defense:
Civil Air Patrol, tax deduction for contributions to 890
Civil preparedness, rewrite of laws concerning 848
Coordinators, use of vehicles with electronically modulated headlights by 104
Directors, use of vehicles with red lights and warning devices by 52

Civil Preparedness—see Civil Defense

Chapter

Civil Procedure:
Appeal of judgment of a magistrate 844
Anti-trust cases, mandatory jury requirement in 707
Birth certificates in paternity suits and legitimation proceedings 83
Claim and delivery before judgment 753
Custody of child removed from parent, mandatory periodic judicial review when 1121
Dead man's statute—see Evidence
Defenses—recrimination and *res judicata* in divorce actions 817
Depositions, videotaped 769, 984
Discrimination, sexual:
Actions against married women 545
Criminal conversation, testimony of spouse concerning 547
Evidence—see that heading
Expert witnesses, videotaped depositions of 984
Fees—effective date of court cost increase 244
Injunctions:
Child Day-Care Licensing Commission 4
Subdivision ordinances, enforcement of 820
Judgments:
Appeals from judgment of magistrate 844
Default entry on motion of plaintiff's attorney 675
Execution of:
Against the person of the judgment debtor 649
Technical amendment 74
Lis pendens—filing of notice 883
Magistrates:
Appeal of judgments 844
Liens on motor vehicles 86
Punitive damages for burning timber 859
Recovery of taxes 946
Rules of:
Attachment—service by publication 910
Default judgments 675
Depositions:
Expert witnesses 984
Videotaped 769
General Statute 1A-1:
Rule 4(j) 910
Rule 30(b) 769
Rule 41(d) 290

Chapter

Civil Procedure:—continued
Rules of:—continued
Rule 55(a) 675
Service by publication—attachment 910
Stay of proceedings 290
Service by publication—attachment 910
Small claims—liens on motor vehicles 86
Statute of limitations—recovery of real property sold for unpaid taxes 886
Stay of proceedings:
Appeal of judgment of magistrate 844
Failure to pay court costs for prior dismissal 290
Subpoenas:
Industrial Commission 505
Joint Legislative Commission on Governmental Operations 344
Taxes, recovery of 946
Venue:
Adjacent county, change to 12
Deficiency judgment 383

Clams—see Fish and Fishing

Clay County—Hayesville, Town of—see that heading

Clerks of Court—see Courts

Cleveland County:
Ambulance services:
Garnishment 64
Obtaining services without intention to pay 63
Coroner, autopsies and death certificates by 189
Earl Station, Town of—see Earl, Town of
Earl, Town of—see that heading
Trapping 765

Coastal Resources (see also Fish and Fishing, and Environment):
Earth moving equipment in coastal area 366
Management—sunset law 712

Code Officials Qualification Board:
Creation 531
Travel and subsistance appropriation 1073

Collection Agencies—sunset law 712

Colleges and Universities:
Appalachian State University stadium, dormitory, and student support facility appropriation 196
Campbell College School of Law Dean appoint member to General Statutes Commission 709

Chapter

Colleges and Universities:—continued
Community Colleges, Technical Institutes and Industrial Education Centers:
Adult high school extension program funds transfers and reversion ... 802
Associate nursing degree program allotment limitation ... 802
Books and equipment funds reversion ... 802
In-plant training program ... 154
Mitchell Community College construction appropriation ... 962
Nursing education assistance program funds distribution ... 802
Operating appropriations:
Allocation formula revision ... 802
Limitation on use ... 802
Personnel policies, suspension of ... 802
Salaries ... 802
Student body president on board of trustees ... 823
Teaching positions, full-time equivalent—formula for ... 802
Tri-County Community College conversion from technical institute ... 1069
Tuition increase, reduction in appropriations because of ... 802
Underenrollment, recall of funds because of ... 802
Wilkes Community College appropriation for building to house James Larkin Pearson collection ... 956
Duke Medical School assistance funding formula ... 802
East Carolina University stadium appropriation ... 196
Elizabeth City State University dormitory appropriation ... 194
Licensing of degree-granting educational institutions by U. N. C. Board of Governors ... 563
N. C. A.&T. University dormitories, union, married student housing and faculty housing appropriations ... 196
Private colleges, procedures for aid to ... 802
State University, N. C.:
Dormitories and parking facility appropriations ... 195
Reynolds Coliseum and Thompson Theatre appropriations ... 196
Tuition:
Aged ... 981
Alcoholic rehabilitation center patients ... 1065
Community colleges tuition increase, reduction in appropriations ... 802
Faculty members of U. N. C. ... 605
National Guard, N. C. ... 228
Needy students, aid to ... 802
Refugees from the Republic of Vietnam, Laos or Cambodia ... 590
University of N. C.:
Board of Governors:
Aid to private colleges, procedure for ... 802

Chapter

Colleges and Universities:—continued
University of N. C.:—continued
Hospitals, community—residencies in 802
Licensing of degree-granting educational institutions 563
National Driving Center, Inc. transfer 1029
Reading clinic appropriation 1094
Teacher training program—instruction of children with special needs 1009
Vacancies 875
Wake Forest and Duke medical schools assistance program funding formula 802
Chapel Hill:
Family medicine building appropriation 1014
Medical school—TEACCH Center appropriation 955
Service plants former employees retirement benefits 1007
Union and parking deck appropriations 196
Charlotte—dormitory, service building and parking lot appropriations 196
Endowment funds 506
Greensboro—recreation center, handball courts, renovations and married student housing appropriations 196
Infirmaries, exemption from governmental sales restriction for 715
Medical malpractice, self-insurance for 523
Tuition:
Faculty members 605
Increase—aid to needy students 802
Wilmington:
Parking lot, union, and dormitory appropriations 196
Dormitory appropriation 197
Veterans—see that heading
Wake Forest Medical School assistance funding formula 802

Columbus County:
Bolton, Town of—see that heading
Chadbourn, Town of—see that heading
Fortune telling, phrenology 335
Sales of bedding plants by vocational education nurseries 850
Sheriff and police 69
Traps, steel 600
Whiteville, City of—see that heading

Commerce, State Department of:
Economic Development Board creation 198
Economic Development, Division of—transfer 198
Energy Division and Energy Policy Council transfer 23
Labor Force Development Council creation 198

Chapter

Commerce, State Department of:—continued
National Parks, Parkways and Forests Development Council, N. C.—transfer 198
Navigation and Pilotage Commissions transfer 65, 802
Ports Authority, N. C.—transfer 65
Reorganization 198
Science and Technology Center transfer 198
Science and Technology Committee transfer 198
Secretary:
Appointment of N. C. Ports Authority personnel 802
Salary 802

Commercial and Sports Fisheries Advisory Committee—reorganization 512

Commercial Driver Training Law Fund—abolished 802

Commissions, Committees, Councils and Boards—see particular heading; Studies; and Resolution Index
Administrative Rules Review Committee—see General Assembly: Legislative Research Commission
Advisory Budget Commission
Aging, Governor's Advisory Council on
Aging, Governor's Coordinating Council on—see Aging, Governor's Advisory Council on
Anatomy, Commission of
Apprenticeship Council
Battleship Commission
Bicycle Committee, N. C.—see Bicycles
Blind, Commission for the
Blind, Consumer and Advocacy Advisory Committee for the
Charlotte-Mecklenburg Planning Commission
Children and Youth, Governor's Advisory Council on
Code Officials Qualification Board
Commercial and Sports Fisheries Advisory Committee
Competency Test Commission
Crime Commission, Governor's
Criminal Code Commission
Criminal Justice Education and Training System Council, N. C.
Developmental Disabilities, Council on
Drug Commission, N. C.
Economic Development Board
Educational Services for Exceptional Children, Council on
Emergency Medical Services Advisory Council
Employment and Training Council, N. C.
Employment Security Commission
Energy Policy Council

Chapter

Commissions, Committees, Councils and Boards—continued
Environmental Management Commission
Eugenics Commission
Fire Commission, State
General Statutes Commission
Goals and Policy Board, State
Governmental Evaluation Commission
Governmental Operations, Joint Legislative Commission on
Handicapped, Governor's Council on Employment of the
Health Services Commission
Hearing Aid Dealers and Fitters Board, N. C. State
Hearing Impaired, State Council on
Historical Commission, N. C.
House Movers Licensing Board—see Licenses and Licensing
Human Relations Council
Incentive Pay for State Employees, Committee for Review of Applications for
Indian Affairs, Commission of
Industrial Commission—see Workmen's Compensation
Inmate Labor Commission
Internship Council, N. C.
Jobs for Veterans Committee, Governor's
Labor Force Development Council
Law and Order Commission, Governor's—see Crime Commission, Governor's
Law Enforcement Officers Liability Insurance Study Commission
Legislative Research Commission—see General Assembly
Legislative Services Commission—see General Assembly
Marine Fisheries Commission
Medical Care Commission, N. C.
Medical Cost Containment, Legislative Commission on— see General Assembly
Meetings of Governmental Bodies, Joint Legislative Study Commission for State Policies on the—see General Assembly
Mental Health Advisory Council
Mental Health Council—see Mental Health Advisory Council
Mental Health Services, Commission for
Mental Health Study Commission
Mentally Ill and Developmentally Disabled, Advocacy Council for the
Milk Commission, N. C.
Mine Safety and Health Advisory Council
Mining Commission, N. C.
Morehead City Navigation and Pilotage Commission
National Parks, Parkway and Forests Development Council, N. C.

Chapter

Commissions, Committees, Councils and Boards—continued
Navigation and Pilotage Commissions
Occupational Safety and Health, Advisory Council on
Parole Commission
Private Protective Services Board
Public Librarian Certification Commission
Public Livestock Market Advisory Board
Science and Technology Committee
Social Services Commission
State Farm Operations Commission
State Parks Study Commission
Testing Commission
Textbook Commission
Transportation, State Board of
Veterans Affairs Commission
Wanchese Harbor Citizens Advisory Council
Wastewater Treatment Plant Operators Certification Commission
Wildlife Resources Commission
Women, Council on the Status of
Youth Advisory Council
Youth Services Advisory Committee
Youth Services, Commission for

Commitment—see Mental Health

Community Colleges—see Colleges and Universities

Company Police—see Security Guards

Competency Test Commission—creation 522

Computers—selection of juries 220

Concord, City of:
ABC profits distribution 33
Charter 744

Condemnation—secondary roads improvements 460, 780

Conflicts of Interest:
Blind, Commission for the 581
Public works 730

Conover, Town of:
Charter 78
Firemen's Supplemental Retirement Fund 334

Conservation and Development—see Environment

Constitution of N. C.:
Corrected citation to 2

Chapter

Constitution of N. C.:—continued
Proposed amendments to:
Balanced State budget 690
Consecutive terms—Governor, Lieutenant Governor 363
Homestead exemption 80
Insurance, life—either spouse 115
Municipal electric generation facilities 528

Consultants:
Former State employees 761
Research Triangle Institute exemption from limitations 802

Consumer Protection:
Credit sales, preservation of claims and defenses in 921
Debt collection 747
Unsolicited goods treated as gifts 498
Utilities Commission staff 468

Contempt of Legislative Committees 344

Contingency and Emergency Funds—transfers 802

Contraception—see Sterilization

Contracts and Purchases (see also Sales):
Construction contracts, public—withdrawal of erroneous bids 617
Federal grants—limitation on continuation of programs with State funds 802
Private examination of married women 375
Public contracts:
Attorney General, participation in execution of contracts by 733
Conflicts of interest 730
Construction contracts:
Changes in project—no new bids 619
Withdrawal of erroneous bids 617
Less than three bids 644
Minimum amount for bid requirement 277
Specifications, separate—each branch of work in construction of public buildings 620
Sanitary district contracts compliance with State laws applicable to cities and counties 544
State agencies technical amendment 148

Contractors, General—sunset law 712

Controlled Substances—see Drugs

Conveyances—see Deeds and Conveyances

Cornelius, Town of—extraterritorial zoning 393

Chapter

Corporations:
Misuse of corporate funds 809
Mutual deposit guaranty associations 578
Non-profit:
Action without meeting 193
Hospitals—authority to purchase officers and directors liability insurance 663
Indemnification of officers and directors 236
Legal services for indigents 841
Receiving public funds 687
Secured loans, interest rates on 779
Professional:
Foresters 53
Limited ownership interest by non-professionals 855
Tender Offer Disclosure Act 781

Correctional Institutions:
Cameron Morrison School transfer 802
Hudson prison unit, community advisory board for 802
Inmate labor commissions reorganization 685
Mental health services:
Cooperation among State agencies 297
Standards prescribed by Commission for Mental Health Services 332
Minimum State prison terms 450, 925
Orange County Correctional Center educational program—appropriation 1035
Paroles—see Criminal Procedure
Polk Youth Center, approval of General Assembly required for transfer of 802
Prisoners:
Debtors, application for trustee for 549
Escapes, sentencing for 745
Federal prisoners, restoration of citizenship rights of 813
Inmate labor:
Commissions reorganized 685
Road work by medium custody prisoners 802
State policy 824
Minimum term in State prison 450, 925
Work release—authority of Secretary of Correction 623
Probation—see Criminal Procedure
Richard T. Fountain School programs 802
State policy on inmate labor 824
Training schools, appropriation for community-based alternatives to ... 1010
Work release—authority of Secretary of Correction 623

Chapter

Correctional Institutions:—continued
Youthful offenders:
Incentive pay appropriation 1061
Programs and paroles 732

Correction, State Department of:
Antirecession funds appropriation 423, 802
Chaplains 950
Mental health services 297
Secretary of Correction:
Data processing evaluation 802
Probation and Parole Division evaluation 802
Salary 802
Work release, authority to place persons on 623

Cosmetics—regulation of, sunset law 712

Cosmetologists—see Licenses and Licensing

Cougars—see Wildlife

Councils—see Commissions, Committees, Councils, and Boards; and particular category

Counties (see also Municipal Corporations):
Alcoholic beverages, regulation of consumption on public property of 693
Animals, dangerous—regulation of possession of 407
Appropriations for non-profit work or training organizations 474
Bodies, unclaimed—notice to Commission of Anatomy 458
Bonds:
Public transportation systems 402
Refunding 201
Residential and subdivision street improvements 811
Water and sewer districts 466
Civil defense directors, use of vehicles with red lights and warning devices by 52
Commissioners:
Equalization and review boards, authorization to appoint 863
Fire control funds used for ambulance and rescue services, validation of 131
Industrial Commission hearings, commissioners provide place for 743
Referendum to modify structure of boards 382
Conveyances of real property—curative statute 1103
Elections, boards of—executive secretary's title 626
Employees:
Defense counsel 307
Interchange of governmental 783
Payment of judgments 834
Fire marshals, use of vehicles with red lights and warning devices by 52

Chapter

Counties (see also Municipal Corporations):—continued
Firemen:
Defense counsel 307
Payment of judgments 834
Fire prevention services 158
Industrial and Pollution Control Facilities Financing Act—amendments 719
Health programs—recovery of indirect costs 876
Investments in savings and loan associations 575
Jails—see Correctional Institutions
Judgments, payment of 834
Land records improvement program 1099
Mental health programs, recovery of indirect costs of 876
Nonprofit corporations receiving funds from counties 687
Police—see Law Enforcement Officers
Recordation of Instruments—see that heading
Redevelopment, authority to acquire property for 660
Rescue squads, defense counsel for 307
Sanitary district board members' compensation 183
Solid waste management 123
Subdivision ordinances, enforcement of 820
Taxes:
Property:
Equalization and review boards 863
Grace period 630
Permissible use of funds—technical amendment 148
Sales tax—commissioners may levy if no election for five years 372
Water and sewer districts 466
Transportation, public:
Authorities 465
Bonds 402
Systems—included in "public enterprise" definition 514
Unemployment compensation pool account, local government 1124
Water and sewer districts—bonds, taxes 466

Courts:
Administrative Office of the Courts:
Assistant district attorneys—salary study 802
Child support program—federal funds 802
Deputy clerks of court appropriation 940
Exemption from distribution requirement for State publications 377
Guardianship proceedings appropriation 958
Juvenile probation and aftercare program— federal funds 802
Psychiatric facilities, advance sheets for councel at 721
Civil Procedure—see that heading

Chapter

Courts:—continued
Clerks of Court:
Deputy clerks, additional 940
Discrimination, sexual—clerks' spouses 546
Salaries 802
Costs:
Divorces—sexual discrimination 576
Effective date of court costs increase 244
Stay of proceedings for failure to pay costs on prior dismissal 290
Court of Appeals expansion 1047
Criminal Procedure—see that heading
District Attorneys—see that heading
Judges and justices:
Court of Appeals expansion 1047
District court judges:
Additional judges appropriation 1130
Applications for limited driving privileges 125
Immediate custody orders—abused children 901
Past retirement age in 25th judicial district, validation of actions of judges 389
Retirement credit 1120
Plea arrangements rejected by judge, continuance when 186
Recall to service of retired judges and justices 736
Retirement—see that heading
Superior court judges:
Appropriations for additional 1119, 1130
Expense allowance 802
Judicial districts divided, fifteenth and twenty-seventh 1130
Juries—see that heading
Magistrates:
Additional 947
Appropriations for authorized magistrates 947
Liens on motor vehicles heard by magistrates 86
Salaries:
Classification plan 945
Maximum 802
Worthless checks 873
Small claims—see Civil Procedure
Solicitors—see District Attorneys

Craven County:
ABC board appointed by board of commissioners 665
Board of education compensation 339
Havelock, Town of—see that heading
New Bern, City of—see that heading

Chapter

Craven County:—continued
Vanceboro, Town of—see that heading
Wound reports 31

Credit Cards:
Revolving credit plans 917, 1108
Technical amendment 148

Creditors—see Debtors and Creditors

Credit Unions—bonds, fees, dormant accounts and investments 559

Crime Commission, Governor's—creation 11

Crime Control and Public Safety, State Department of:
Creation 70
Energy Division and Energy Policy Council transfer 23
Highway Patrol transfer 70
Secretary's salary 802

Crimes:
Age, misrepresentation of—free tuition 981
Aircraft, unauthorized use of 919
Armed robbery, mandatory imprisonment for 871
Assaults on law enforcement officers or firemen 829
Athletic contests, dangerous activities during 772
Births, concealing of 577
Boats:
Personal property taken from 729
Removal from dock 729
Unauthorized use of motorboats 919
Burglary mandatory imprisonment 871
Capital punishment for murder 406
Clams on oyster rocks, taking of 515
Corporate funds, misuse of 809
Cougars, killing of 794
Currency-operated machines, breaking into 723, 853
Drugs—see that heading
Escapes 745
Felonies, multiple—mandatory imprisonment for 1131
Felony Firearm Act amendments 1105
Forgery on petitions for referendums 218
Former State employees dealing with State 761
Fraud, welfare 604
Hypodermic syringes, disposal of 907
Illigitimate children, inadequate support of 3
Littering, rewrite of law of 887
Marijuana, possession of 862

Chapter

Crimes:—continued
Misrepresentation of age for free tuition 981
Motor vehicles, unauthorized use of 919
Murder 406
Nursing homes, giving notice of inspection of 656
Obscenity:
Adult establishments in single building limited 987
Arrest without adversary hearing 440
Obstructing justice by picketing or parading 266
Personal property:
Removing from boats 729
Serial numbers, alteration or removal of 767
Picketing or parading, obstructing justice by 266
Safecracking 1106
Serial numbers, alteration or removal of 767
State funds, improper expenditure or transfer of 930
Stolen goods, possession of 978
Tax evasion, punishment for 92
Ticket scalping at musical concerts 9
Trapping 933
Usurious interest on household furniture 807
Utility meters, tampering with 735
Vending machines, breaking into currency-operated 853
Weapons:
Assault on law enforcement officer or fireman with deadly weapon 829
Establishments where alcoholic beverages are sold or consumed 1016
Felons, possession by 1105
Mass death and destruction, weapons of 810
Worthless checks 885

Criminal Code Commission—allocation of funds 802

Criminal Justice Education and Training System Council, N. C.—
traffic regulation on campus 831

Criminal Procedure:
ABC Board rule violation, expunge record of 18, 150
Appellate procedure law revision 711
Arrests for obscenity without adversary hearing 440
Attorneys, representation of defendant at all stages of case by 1117
Capacity of defendant:
Confidentiality of report 25
Specificity of motion raising issue 860
Capital punishment sentencing procedures 406
Citizenship rights of federal prisoners, restoration of 813

Chapter

Criminal Procedure:—continued
Contempt law revision 711
Continuance upon rejection of plea arrangments 186
Dismissal with leave when fugitives fleeing jurisdiction 777
District attorney's removal, dismissal of petition for 21
Evidence—see that heading
Federal prisoners, restoration of citizenship rights of 813
Felonies, multiple—mandatory imprisonment 1131
Fugitives fleeing jurisdiction, dismissal with leave when 777
Identification, nontestimonial—issuance and service of order 832
Indictments for rape 861
Jury instructions, written 776
Juvenile proceedings—see Minors
Magistrates—worthless checks 873
Minimum State prison term 450, 925
Paroles:
  Law revision 711
  Mandatory parole for misdemeanants—notice, technical change 624
  Youthful offenders 732
Police information network, accessibility to attorneys of 836
Plea arrangements, rejection of 186
Probation:
  Law revision 711
  Misdemeanor, no revocation for 364
  Split sentences, authorization continued for 888
Property, restoration to owner before trial of stolen 613
Rape:
  Essentials of indictment 861
  Evidence 851
Records, expunction of:
  Identification of minors' records 642
  Traffic violations, applicability to 699
Restitution and reparation 614
Service of process upon unincorporated associations 557
Sentences:
  Escapes 745
  Mandatory imprisonment:
    Armed robbery 871
    Multiple felonies 1131
  Revision of law concerning 711
  Split sentences—authorization to impose continued 888
Speedy trials 787
Trials:
  Procedure law revision 711

Chapter

Criminal Procedure:—continued
Trials:—continued
Speedy 787

Cultural Resources:
Albemarle Tour highway signs 504
Appropriations:
Arts program, grassroots 1008
Asa Biggs birthplace 1060
Asheville Health Education Museum 953
Avery County Museum 957
Blandwood 995
Capitol Building operation 1043
Charlotte Opera Association 1082
Charlotte Symphony Orchestra, Inc. 1075
Cupola and Barker Houses 939, 975
De Rosset House 1055
Edmondston Diary 1063
Fort Defiance, Inc. 1052
Franklin House 974
Governor's portraits exhibits 1019
Granville County Historical Society 1066
Grassroots arts program 1008
Harmony Hall 1058
Historical writings revolving fund 1085
Historic Edenton, Inc. 939, 975
Historic Preservation Fund, Inc. 1049
Historic sites survey in Fayetteville and Cumberland County 1071
Holly tree site 941
Jacob W. Holt House 1068
James Iredell House 938
Library resources program 990
Malcolm Blue Historical Society 1080
Marks House 1045
Mountain Gateway Museum 970
Museum of Life and Science, N. C. 1086
New Bern Academy 1051
Newbold-White House 937
Northeastern N. C. historic sites 1084
Old Salem 951
Outdoor historical dramas 986, 996
Richmond Hill Law School 1053
Roanoke Canal lock house 1023
Rockford Preservation Society 943
Schiele Museum of Natural History and Planetarium, Inc. 954

Chapter

Cultural Resources:—continued
Appropriations:—continued
Seaboard Coastline Building 1092
Southern Railway Spencer Shops 1093
Stagville Preservation Center 1034
Stonewall 1054
Symphony Society, N. C. 1006
Tar Heel Junior Historian Association 980
Theatres, nonprofit professional 986, 996
Western N. C. Heritage Center 944
William King House 1056
Art Society, N. C.:
Employees' retirement 574
Reorganization 702
Battleship Commission amendments 741
Buildings with cultural significance, use by State of 998
Grants, State—procedures for requesting 802
Grassroots arts program creation 1008
Historical dramas allocation of funds 996
Historic structures tax incentives 487
Historic vehicles special license plates 572
Seaboard Coastline Building, transfer for use as a museum of 607
Symphony Society, Inc., N. C.—administration of State grant 802

Cultural Resources, State Department of:
Cooperative library development 645
Grants, State—procedures for requesting 802
Historical Commission, N. C.—expansion, duties 513
Seaboard Coastline Building transfer 607
Secretary's salary 802

Cumberland County:
Ambulance services, garnishment for 64
Boxing, boxing commission 437
Cosmetologists regulation 155
Equalization and review board 175
Fayetteville, City of—see that heading
Historic sites survey appropriation 1071
Hunting with firearms from public roads 241
Legal services for indigents in civil cases 411
Motor vehicle license tax 433
Spring Lake, Town of—see that heading
Traps, steel 471

Chapter

Curative Statutes (see also particular heading for local legislation):
Deeds, conveyances and instruments:
Corporate deeds 40, 538
Counties, conveyances by 1103
Seals, without 165, 538
Divorce judgments 320
Fire protection funds used for rescue and ambulance services 131
Judges past retirement age in 25th judicial district 389
Marriages, interracial 107
Notaries public 734
Registers of deeds, acts validated of assistant or deputy 124

Currituck County:
ABC board appointed by commissioners 71
Coroner 10
Game Commission jurisdiction 190
Hunting deer on the Outer Banks 494
License taxes for campgrounds and outdoor advertising businesses 294

Custody—see Minors

D

Dam Safety:
Exemption from regulations 878
Sunset law 712
Technical amendments 878

Dare County:
Airport Authority membership 161
Alcoholic beverages:
ABC board:
Contracts with local law enforcement agency 606
Selection of members 417
Profits distribution 202
Game and wildlife commission 435

Davidson County:
Board of education compensation 259
Denton, Town of—see that heading
Motor vehicle license tax 433
Scholarship fund honoring Dennis Franklin Spinnett and Robert Glenn Crawford 256
Wound reports 843

Davidson, Town of—extraterritorial zoning 393

Davie County:
Hunting in the snow 492

Chapter

Davie County:—continued
Pistol permits 72
Wound reports 843

Day Care (see also Child Day-Care Licensing Commission):
Commission may seek injuctive relief 4
Employment of former criminals 1011
"Facility" definition 4
Fence requirement exemption for facilities located in public schools 1104
Inspection and licensing 674
Operating without a license 1011

Deaf Persons—see Handicapped Persons

Dealers'-Manufacturers' License Fund—abolished 802

Death (see also Vital Statistics)—right to natural 815

Death Benefits:
Ambulance service workers 1048
Firemen's "official duties" definition 797
Fraternal societies maximum benefits 128
State employees completing the work year in which they turn 65 561

Debtors and Creditors (see also Liens, Mortgages and Deeds of Trust, and Secured Transactions):
Consumer protection debt collection 747
Execution of judgment against the person 649
Homestead exemption sexual discrimination:
Constitution changes, proposed 80
Statutory changes 81
Liens—see that heading
Notice to creditors of a decedent 446, 798
Trustee for imprisoned debtor, application for 549
Venue for deficiency judgment on a secured debt 383

Decedents' Estates (see also Wills):
Administration:
Distribution of assets 740
Notice to creditors 446, 798
Personal representatives:
Bonds:
Exclusion of money assets in computation 870
Waiver 29
Power of election of property for federal income tax purposes 556
Technical amendments 446
Assets distribution 740
Claims presentation 446
Inheritance taxes—see Taxes and Assessments

Chapter

Decedents' Estates (see also Wills):—continued
Intestate succession:
Illegitimate children, inheritance by father of 757
Paternity acknowledgment during child's lifetime 591
Notice to creditors 446, 798
Personal representatives—see Administration, this heading
Statute of limitations 446

Deceptive Practices—see Consumer Protection

Deeds and Conveyances (see also Recordation of Instruments):
Business trusts, conveyance of real property by 768
Curative Statutes:
Corporate deeds 40, 538
Counties, conveyances by 1103
Seals, instruments without 165, 538
Grants from State, registration period for 701
Land parcel identifier numbers 589
Registers of Deeds—see that heading

Deeds of Trust—see Mortgages and Deeds of Trust

Dentists:
Practice by students 368
Sunset law 712

Denton, Town of—board of commissioners terms 287

Departments, State:
Federal grants contracts 802
Heads of departments, salaries of non-elected 802
Leases, review of 485
Office space, payment for use of State-owned 802
Reports to SBI of misuse of State property 763
Sunset law—termination of certain State agencies 712
Surplus property, preference over new equipment for 802

Depositions—see Civil Procedure

Detectives, Private—sunset law 712

Developmental Disabilities, Council on—membership and definition 881

Disability Benefits—see Workmen's Compensation

Disabled Persons—see Handicapped Persons, and Workmen's Compensation

Discrimination:
Business—foreign trade relationships 916
Handicapped persons' insurance 894
Racial discrimination—marriages 107

Chapter

Discrimination:—continued
Sexual:
Apprenticeship 550
Births, concealing of 577
Child labor 551
Child support 501
Civil procedure:
Actions against married women 545
Criminal conversation, testimony of spouse regarding 547
Clerks of courts' spouses 546
Custody 501, 713
Divorce:
Costs 576
Insanity 501
Governors' surviving spouses 554
Guardians of children of servicemen 714
Homestead exemption:
Constitution changes, proposed 80
Statutory changes 81
Illegitimate children, inheritance by father of 757
Incompetents 102, 501
Insurance, life:
Constitutional changes, proposed 115
Statutory changes 518
Intestate succession—inheritance by father of illegitimate child 757
Law enforcement officers, badge and revolver to spouse of deceased 548
Marriage ceremony 592
Militia, service as officer in 553
Private examination of married women 375
Revenue laws 309
Runaways 552
Trustees for imprisoned debtor, application for 549
Wills recommending custody and tuition of minor children 713

District Attorneys:
Assistant:
Appropriation for additional 1119
Salary study 802
Divided judicial districts 1130
Investigatorial assistants 969
Removal of, dismissal of petition for 21

Divorce:
Certificates certified copy fee 1110

Chapter

Divorce:—continued
Judgments which fail to recite plaintiff's right to an absolute divorce, validation of 320
Recrimination, defense of—actions based on one year's separation 817
Sexual discrimination:
Costs 576
Insanity 501
Wills, effect on 74

Doctors—see Physicians and Surgeons

Documents—see Recordation of Instruments

Domestic Relations—see Parent and Child, Marriage, and Divorce

Dortches, Town of—incorporation 358

Driver Training and Safety Education Fund—advances 802

Drug Commission, N. C.—transfer 667

Drugs:
Controlled Substances Act:
Schedule I 891
Schedule II 891
Schedule IV 891
Schedule VI 862
Technical amendments 891
Marijuana, possession of 862
Medicine and drug purchases by hositals, tax refund for 895
Prescriptions, identification requirements for 421
Regulation—sunset law 712

Duplin County:
Board of education elections validation 49
Kenansville, Town of—see that heading
Magnolia, Town of—see that heading

Durham, City of:
Assessments 632
Clerk appoint and remove subordinate employees 255

Durham County:
ABC revenue for law enforcement 61
Board of education elections 249
Durham, City of—see that heading
Voter registration for Chapel Hill residents 274
Wound reports 843

E

Earl Station, Town of—see Earl, Town of

Chapter

Earl, Town of—name change 207

East Carolina University—see Colleges and Universities

Economic Development Board—creation 198

Eden, Town of—firemen's supplemental retirement fund 285

Edgecombe County—Princeville, Town of—see that heading

Edmondston Diary—publication appropriation 1063

Education—see Colleges and Universities, and Schools

Educational Services for Exceptional Children, Council on:
Allocation of funds 989
Membership, organization, and duties 646

Education, Boards of:
Auction sales of personal property 803
Eligibility of employees to serve on board 662
Expense funds 802

Education, State Board of:
Community Colleges:
Allocation formula revision 802
Enrollment:
Formula 802
Underenrollment, recall of funds for 802
Dropout funds allocation 802
Educational Services for Exceptional Children, Council on—see that heading
In-plant training program 154
Kindergartens allocation of funds 1037
Library media personnel allocation of funds 1088
Occupational education equity formula 802
Reading program alternative approaches 802
Teacher training for instruction of children with special needs, redirection of funds for 1009
Textbooks for Youth Services 802
Transportation:
Children with special needs:
Authorization 830
Funding 1013
Supervisors, Board set qualifications for 314
Tuition—alcoholic rehabilitation patients 1065

Education, State Department of Public:
Clerical and guidance personnel fund allocations 802
Driver Training and Safety Education Fund advances 802
Health, physical education, and athletic activities fund allocations 802

Chapter

Education, State Department of Public:—continued
Textbook appropriations, reversion of 802

Elderly Persons—see Aged

Elections:
Advertizing rates for candidates for public office 856
Annexation voter registration 752
Assistants, precinct
Aid voters 345
Optional appointment 95
Ballots, absentee:
Municipal elections 475
Persons entitled to absentee ballots, voting in person by 93
Revision of statutes 469, 680
Boards of Elections, County—executive secretary title change 626
Campaign reports:
Contributions 615
Loans 635
Education, Boards of—see that heading
Elections, State Board of—see that heading
Fees, filing—petition in lieu of 386
Observers relief 453
Parties, political—affiliation 130, 408
Petitions in lieu of filing fees 386
Precinct officials assist voters 345
Primaries:
Held in May 661
Petitions in lieu of filing fees 386
Presidential preference primary, seventeen-year-olds vote in 19
Referendums:
Boards of county commissioners, modification of structure of 382
Clean water bonds 677
Forged signatures on petition 218
Highway construction bonds 643
Supervisors of elections, eight-hour workday for 1129
Technical amendments 265

Electrical Contractors—sunset law 712

Elevators—inspection fees 983

Elizabeth City, City of—board of education terms, vacancies 8

Elizabeth City State University—see Colleges and Universities

Ellenboro, Town of—removal of debt limit 5

Emergency Medical Services Advisory Council—expansion 509

Chapter

Employees, State:
Assistance in obtaining State employment, compensation prohibited for ... 397
Death benefits ... 561
Former employees dealing with State ... 761
Funds, improper expenditure or transfer of ... 930
Incentive pay program creation ... 1031
Interchange of governmental employees ... 783
Medical and disability benefits extension ... 24
Meritorious service award system transfer ... 288
Moving expenses, payment by employing agency of ... 802
Paralegal classification for State personnel ... 821
Personnel Act, State—technical amendments ... 866
Prepaid legal services payroll deductions ... 88
Public works conflicts of interest ... 730
Retirement—see that heading
Salary increase (see also Salaries):
Cost of living raise ... 802
Merit raises ... 802
Travel allowances ... 928

Employer and Employee—see Labor

Employment Agencies—sunset law ... 712

Employment and Training Council, N. C.—creation ... 771

Employment Security:
Benefit requirements ... 26
Local government unemployment compensation pool account ... 1124
Technical amendments ... 727

Energy Policy Council—transfer ... 23

Engineers:
Conflicts of interest ... 730
Professional corporations ... 855
Sunset law ... 712

Environment:
Air pollution control—sunset law ... 712
Clean water bond referendum ... 677
Coastal area earth moving equipment, registration of ... 366
Energy conservation:
Loans—Housing Finance Agency ... 1083
Tax credit ... 792
Environmental Policy Act continuation ... 532
Garbage and Trash—see Sanitation

Chapter

Environment:—continued
Insulation and energy utilization standards of State Building Code, enforcement of 703
Keep North Carolina Beautiful, Inc. appropriation 1072
Littering, rewrite of law of 887
Oil recycling program 802
Pollution:
Oil Pollution Control Act technical amendments 858
Sedimentation Pollution Control Act—civil actions 852
Solar energy heating and cooling systems:
Ad valorem property tax classification 965
Income tax credit 792

Environmental Management Commission:
Rules filed with Attorney General 374
Sunset law 712

Environmental Policy Act—continuation 532

Estates—see Decedents' Estates

Ethics—see Conflicts of Interest

Eugenics Commission—abolished 497

Evidence:
Admissibility of:
Identity of motor vehicle operator 74
Learned treatises 1116
X-rays, copies of 569
Communications, release of privileged 1118
Dead man's statute technical amendment 74
Hearsay, learned treatises as 1116
Nontestimonial identification 832
Rape cases 851
Spouse's testimony in criminal conversation cases 547
X-rays, copies of 569

Examinations:
High school graduates 522
Married women, private examination by clerk of court of 375
Public school students 541

F

Family Planning—see Sterilization

Farmers' Markets—see Agriculture, State Department of

Farming—see Agriculture

Chapter

Farmville, Town of:
Board of commissioners' and mayor's salaries 439
Erosion and sedimentation regulation 477

Fayetteville, City of:
Eminent domain 846
Historic sites survey appropriation 1071
Police and firemen insurance benefits 322
State office building appropriation 1027

Fees (see also Salaries):
ABC permits 977
Annulment records, copies of 1110
Birth certificates:
Amendments 1110
Copies 310
Cape Fear River pilotage charges 700
Chiropractors' license 922
Death certificates:
Amendments 1110
Copies 310
Divorce records, copies of 1110
Elevator inspections 983
Fishing licenses, nonresident commercial 999
Hunting license for big game, non-residents' 746
Land title registration 774
Marriage certificates, copies of 1110
Marriage licenses, copies of 310
Motorboat number, replacement of lost certificate of 566
Motor Vehicles, Division of—acknowledgement of signatures 785
Motor vehicle registration fee for driver education programs 1002
Notaries public 429
Nursing Home administrators license renewal 652
Office space, State-owned 802
Podiatrists' license renewal 621
Utilities Commission hearing transcripts 1003
Vital records, certified copies of 1110

Ferguson Mountain—name change 262

Fertilizers—see Agriculture

Fiduciaries—see Trusts and Trustees

Firearms—see Weapons

Fire Commission, State—creation 1064

Fire Departments:
Counties, provision of fire prevention services by 158

Chapter

Fire Departments:—continued
Fire marshals' vehicles:
Headlights, electronically modulated 104
Red lights and warning devices 52
Funds used for rescue and ambulance services, validation of 131
Insurance companies furnish information on fire losses 520
Investigations of fires 596
Registration plates for members private vehicles 773

Firemen:
Death benefits—"official duties" definition 797
Defense counsel, provision by cities and counties of 307
Eligibility for membership in Local Governmental Employees' Retirement System 316
Fire marshals' vehicles:
Headlights, electronically modulated 104
Red lights and warning devices 52
Investigations of fires 596
Pension Fund—minimum pension, retirement age, delinquent payments 926
Registration plates for private vehicles 773

Fish and Fishing:
Clams on oyster rocks, taking of 515
Disabled persons, no fee for licenses for 658
Licenses:
Commercial license for operator of a vessel owned by another 754
Disabled persons 658
Nonresident commercial license fee raised 999
Technical amendment 148
Notice of assessment for promotion of seafood industry 356
Shellfish population increase appropriation 952

Flatrock Playhouse and Vagabond—appropriation 986

Florists—exemption from maximum hour law for Valentine's Day 146

Food Stamps—see Social Services

Foreclosures—see Taxes and Assessments

Foreign Trade Zones—property tax 782

Foresters:
Inclusion in professional corporations act 53
Sunset law 712

Forests:
Forest Development Act/appropriation 562/1077
Primary products assessment 573

Chapter

Forests:—continued
Timber:
Arson, punitive damages for 859
Financing statements 156

Forgery—see Crimes

Forsyth County:
Charitable solicitations regulation 168
Cosmetologists regulation 155
Employees' retirement, prior service credit for 251
Rural Hall, Town of—see that heading
Tanglewood Park, activities conducted by county in 112
Tax listing period extension 250
Trapping 765
Utility commission 222
Winston-Salem, City of—see that heading
Wound reports 31

Foster-Care—see Social Services

Foxfire Village, Town of—incorporation 237

Franchises—business opportunities sales 884

Franklin County—Franklinton, Town of—see that heading

Franklinton, Town of—school property 388

Fraternal Societies:
Insurance agent examination 718
Maximum death benefits 128

Fraud—see Crimes

From This Day Forward Drama—appropriation 986

Funds, Special—authorization for expenditures 802

Funerals (see also Cemeteries)—burial of deceased migrant farm workers 648

G

Game and Game Laws—see Hunting, Fish and Fishing, and Wildlife

Garbage and Trash—see Sanitation, and Environment

Garner, Town of—charter 333

Gaston County:
Board of commissioners meetings, clerk 113
Board of education organization, election 633
Cherryville, Town of—see that heading
Gastonia, City of—see that heading

Chapter

Gaston County:—continued
Mass transit districts referendum 336
Police force name change 159
Wound reports 843

Gastonia, City of:
Industrial diversification tax and commission abolished 602
Orthopedic Hospital, N. C.—see Hospitals

Gates County—ABC board election 261

General Assembly:
Biographical directory appropriation 1074
Contempt of legislative committees 344
Drafting staff authorization 802
Employees' salary increase 802
Fiscal Research Division to provide actuarial notes t0 accompany retirement legislation 503
Insurance, hospital and medical—members and former members 631
Joint Legislative Commission on Governmental Operations—see Governmental Operations, Joint Legislative Commission on
Legislative Research Commission:
Administrative Rules Review Committee—creation/appropriation 915/1033
Studies (see also Resolutions Index):
Consumer product safety 1036
Insurance laws 1028
Law Enforcement Officers' Benefit and Retirement Fund 972
Public school matters 972
Lobbying exemptions 697
Medical Cost Containment, Legislative Commission on— creation 968
Meetings of Governmental Bodies, Joint Legislative Study Commission for State Policies on the—creation 959
Portraits of legislative officers appropriation 1074
Session Laws, surplus copies of 380
Speaker of the House using State-owned vehicles and aircraft 802

General Statutes Commission—member appointed by Dean of Campbell College School of Law 709

Gifts (see also Taxes and Assessments: Gift Taxes):
Anatomical gifts, guardian donate body of ward for 166
Inheritance taxes—gifts within three years of donor's death 918
Minors, custodians of gifts to 463
Unsolicited goods received by mail 498

Goals and Policy Board, State—policy of prevention 923

Goldsboro, City of:
Board of education election, terms 308, 609

Chapter

Goldsboro, City of:—continued
Conveyance of land to Old Waynesboro Commission 678
Governmental Evaluation Commission—creation 712
Governmental Operations, Joint Legislative Commission on:
Lieutenant Governor serving as chairman 988
Regional councils of government study 1097
Subpoena power 344
Governor:
Consecutive terms—proposed amendment to N. C. Constitution 363
Discrimination, sexual—surviving spouses 554
Portrait exhibits appropriation 1019
Granite Falls, Town of—ABC profits distribution 32
Granville County—nursing home renovation expenditures 413
Granville County Historical Society—appropriation 1066
Gratuities—see Labor: Tips
Greene County:
Pistol permits 223
Snow Hill, Town of—see that heading
Greensboro, City of:
Claims settlement 85
Land sale to Fireman's Club 73
Planning board 85
Greenville, City of:
Board of education selection, terms 44
Condemnation procedures 716
Street improvements, assessments for 331
Tree regulation 328
Guardian and Ward:
Anatomical gift of ward's body by guardian 166
Bonds, surety—exclusion of money in computation 992
Children of servicemen, sexual discrimination in selecting guardians for 714
Gifts to minors, custodians of 463
Guardianship proceedings appropriation 958
Incompetent adults, rewrite of guardianship laws concerning 725
Neglected children, guardians *ad litem* for 766
Guards—see Security Guards
Guilford County:
Board of education members 296
Burial of indigents 279
Greensboro, City of—see that heading

Chapter

Guilford County:—continued
Hunting:
From public highways with firearms 181
With lights 167
Retirement of emergency transportation personnel 278
Wound reports 843

H

Habitual Offenders—motor vehicle laws 243

Halifax County:
ABC profits distribution 448
Roanoke Rapids, City of—see that heading
Scotland Neck, Town of—see that heading

Hamlet, City of—land lease to Lion's Club 48

Handicapped, Governor's Council on Employment of the—transfer 872

Handicapped Persons (see also Workmen's Compensation):
Blind:
Commission for the Blind—see Blind, Commission for the
Communications system appropriation 1046
Guide dogs, right to buy or lease premises by persons with 659
Income tax exemption for blind included in determination of necessity of filing a return 315
Children with special needs—see Schools
Deaf persons income tax exemption 898
Disabled persons:
Assessments, postponement of collection of 203
Drivers' licenses, reapplication after denial of 840
Hunting and fishing licenses without fee 658
Insurance, discrimination in provision of 894
Parking:
Priority 119
Time limits 340
Retarded persons—see Mental Health

Harnett County—hunting foxes 636

Havelock, Town of—mayor and commissioners terms, vacancies 152

Hayesville, Town of—board of commissioners and mayor terms 210

Haywood County:
Ambulance services:
Garnishment 64
Obtaining services without intention to pay 63

Chapter

Haywood County:—continued
Cedar Cliff—see Ferguson Mountain
Consolidated school system elections 22
Ferguson Mountain—see that heading
Hazelwood, Town of—see that heading

Hazelwood, Town of—charter 225

Health—see Public Health and Mental Health

Health Maintenance Organizations—see Insurance

Health Services, Commission for—nursing home inspections without notice 656

Hearing Aid Dealers and Fitters Board, N. C. State— sunset law 712

Hearing Impaired, State Council on—creation 991

Hearsay—see Evidence

Heating Contractors—sunset law 712

Henderson, City of:
Firemen's supplemental retirement system 133
Sandra Dupree trial reimbursement 1062

Henderson County:
Ambulance services:
Garnishment 64
Obtaining services without intention to pay 63
Hendersonville, Town of—see that heading
Register of deeds vacancy 180

Hendersonville, Town of—civil service commission abolished 416

Hertford County:
ABC board election 261
Meherrin River firearm restrictions 67
Murfreesboro, Town of—see that heading
Wound reports 843

Higher Education—see Colleges and Universities

Highlands, Town of—ABC election 611

High Point, City of:
ABC profits distribution 459
Civil Service Commission and city manager's duties 248, 540
Park rangers and lake wardens appointments 246
Police retirement and pension fund board of trustees 247

Highway Fund, State:
Adjustments reflecting:
Actual revenue 802
Federal funds changes 802

Chapter

Highway Fund, State:—continued
Allocations by Transportation Controller 802
Commercial Driver Training Law Fund 802
Dealers'-Manufacturers' License Fund 802
Secondary road maintenance, credit balance applied to 802
Transfers:
Driver training program 802
Limitations on 802

Highway Patrol, N. C. (see also Law Enforcement Officers):
Nuclear fuel, notification of transportation of 839
Salaries of injured patrolmen 329
Supervisory personnel 749
Transfer 70
Turns through highway median 731

Highways—see Streets and Highways

Historical Commission, N. C.:
Expansion, duties 513
Identification of culturally significant buildings for State use 998

Historic Edenton, Inc.—appropriations 939, 975

Historic Hope Foundation, Inc.—appropriation 1056

Historic Preservation Fund, Inc.—appropriation 1049

Historic Wilmington Foundation, Inc.—appropriation 1055

History—see Cultural Resources

Holidays, Public
Banks 99
Valentine's Day, florists exempt from maximum hour law on 146
Veterans Day student holiday 1128

Holly Ridge, Town of—extension of corporate limits 87

Homestead Exemption:
Allowable income 666
Correct citation to N. C. Constitution 2
Sexual Discrimination:
Constitutional changes, proposed 80
Statutory changes 81

Honey—see Agriculture

Hospitals:
Bonds issued by hospital authorities, tax exemption for 268
Cabarrus Memorial Hospital, private sale of corporate stock by 134
Dorothea Dix Hospital, removal from Capital Building Authority administration of 750
Eastern N. C. Hospital 467

Chapter

Hospitals:—continued
Forsyth County Hospital Authority, Inc. insurance 147
Insurance for officers and directors of non-profit hospitals 663
Lenox Baker Children's Hospital name change 462
Licensing—sunset law 712
McCain Hospital, treatment of various diseases at 467
Name changes of certain State medical institutions 462, 467
N. C. Memorial Hospital involuntary commitment 738
Orthopedic Hospital, N. C., operation of school by 105
Parking regulation 178
Residency grants 802
Rex Hospital financing 724
Sanatoriums names changed 462, 467
Specialty hospitals:
Names changed 462, 467
Study by Director of Budget 802
Tax refunds for medicine and drug purchases 895
Wake County Hospital System, Inc. insurance 147
Western Carolina Specialty Hospital renovation appropriation 1017

House in the Horseshoe Drama—appropriation 986

House Movers:
Licensing board abolished 579
Regulation 720
Sunset law 712

Housing:
Authorities:
Rent subsidies 924
Technical amendments 784
Indian Housing Authority, N. C. State—creation 1112
Limited partnership operating low rental housing, exemption from securities registration for 162

Housing Finance Agency:
Energy conservation loans 1083
Transfer 673

Human Relations Council—employment discrimination investigations 726

Human Resources, State Department of:
Aging, Division of:
Appropriation 960
Creation 242
Blind, communication system for—appropriation 1046
Blind, Consumer and Advocacy Advisory Committee for the—creation 842, 1050

Chapter

Human Resources, State Department of:—continued
Burial of deceased migrant farm workers 648
Cameron Morrison School transfer 802
Capital Building Authority, Department placed under administration of 750
Chaplains 949
Child day-care inspection and licensing 674
Children and Youth, Governor's Advocacy Council on— transfer 872
Child support program, federal funds for 802
Chronic renal disease control program appropriation 1078
County health programs, recovery of indirect costs of 876
Cystic fibrosis program appropriation 1087
Dental health program appropriation 976
Drug Commission, N. C.—transfer 667
Emergency Medical Services Advisory Council expansion 509
Eugenics Commission abolished 497
Food stamp pilot programs appropriation 1081
Governor's Coordinating Council on Aging—see Governor's Advisory Council on Aging
Handicapped, Governor's Council on Employment of the— transfer 872
Health and welfare agencies, non-State—requests for grants 802
Health care institutions, positions budgeted for direct patient care at 802
Hearing impaired, appropriation for community services for 991
Juvenile probation and aftercare program, federal funds for 802
Local human resources agencies rules and regulations 802
Mental Health Advisory Council name change and conformation to federal aid requirements 694
Mental health facilities licensing 739
Morton Pritchard Alcoholic Rehabilitation Farm appropriation 1091
Nursing home inspections without notice 656
Older Americans Act funds matching other federal grants 802
Olympics, Special—appropriation 1059
Prevention, policy of 923
Public health inspection services appropriation 976
Regional offices evaluation 802
Secretary's salary 802
Social Services Commission, one member from each congressional district on 516
Solid waste management, delegation of authority to local governments for 123
Training schools, appropriation for community-based alternatives to ... 1010
Vital Statistics, State Registrar of 163
Youth Services:
Commission abolished 627

Chapter

Human Resources, State Department of:—continued
Youth Services:—continued
Incentive pay for committed juveniles 1061
Textbooks from State Board of Education 802
Youth Services Advisory Committee creation 627
Youth Unlimited, Inc. appropriation 1005

Huntersville, Town of—extraterritorial zoning 393

Hunting (see also Fish and Fishing, Wildlife, and particular heading for local acts):
Bear in Holly Shelter Wildlife Refuge 585
Field trial for beagles without hunting licenses 191
Licenses:
Disabled persons 658
Field trial for beagles without licenses 191
Non-resident big game license fee 746
Traps 933

Hyde County:
Ambulance services:
Garnishment 138
Obtaining services without intention to pay 63
Board of commissioners terms 281
Board of education membership, election 206
Hunting bear 412
Wound reports 843

Hypodermic Syringes—disposal 907

I

Illegitimate Children—see Parent and Child

Immunizations—see Public Health

Incentive Pay for State Employees, Committee for Review of Applications for—creation 1031

Incompetents—see Capacity, Insanity, and Mental Health

Indian Affairs, Commission of:
Sunset law 712
Transfer 849

Indigents—legal services rendered by nonprofit corporations 841

Indian Housing Authority, N. C. State—creation 1112

Industrial Commission, N. C.—see Workmen's Compensation

Industrial Education Centers—see Colleges and Universities: Community Colleges, Technical Institutes, and Industrial Education Centers

Chapter

Inheritance Taxes—see Taxes and Assessments

Injunctions—see Civil Procedure

Inmate Labor Commission—reorganization 685

Insanity (see also Mental Health, and Capacity)—sexual discrimination 102

Installment Sales—see Contracts and Purchases, and Sales

Instruments—see Deeds and Conveyances, Wills, and Recordation of Instruments

Insurance:
- Agents, licensing of—sunset law 712
- Assessment of premiums to individual insurers participating in FAIR and Beach plans 343
- Beach plan, assessment of premiums for 343
- Brokers bond 868
- Burial associations, mutual:
  - Bylaw amendments 748
  - Commissioner, expenses of—assessments 748
- Companies, licensing of—sunset law 712
- Fair Access to Insurance Requirments (FAIR) plan:
  - Assessment of premiums 343
  - Termination date 109
- Fire:
  - Fire Insurance Rating Bureau abolished 828
  - Insurance companies furnish information on fire losses to fire officials 520
- Fraternal societies:
  - Insurance agents examination 718
  - Maximum death benefits 128
- Handicapped persons, discrimination against 894
- Health maintenance organizations, regulation of 580
- Hospitals, nonprofit—liability insurance for officers and directors 663
- General Assembly, medical and hospital coverage for members and former members of 631
- Life:
  - Group:
    - Maximum limits removed 192
    - Multiple employers 835
  - Interest on death benefits 395
  - Sexual discrimination:
    - Constitutional changes, proposed 115
    - Statutory changes 518
- Medical malpractice, U. N. C. self-insurance for 523

Chapter

Insurance:—continued
Motor vehicles:
Automobile Rate Administrative Office abolished 828
Warranties of foreign car distributors 185
Property insurance, Fair Access to Insurance Requirements article termination date 109
Psychological services, patients' freedom of choice of 601
Publication of annual statements of insurance companies 376
Rates:
N. C. Rating Bureau creation 828
Revision of law regulating 828
Reinsurance Facility, N. C. Motor Vehicle—ceding privileges 710
State agencies, insurance and surety bonds for 802
U. N. C. self-insurance for medical malpractice 523

Insurance, Commissioner of:
Publication of annual statements of insurance companies 376
Rates, authority with respect to 828
Salary 802

Insurance, State Department of:
Auditors' expenses 802
Special Fund abolished 802
State agencies, insurance and surety bonds for 802
Work overload appropriation 1076

Interest (see also Loans):
Committed funds, applicability of interest restrictions to 778
Credit card plans, revolving 917, 1108
Home loans secured by first mortgages, permanent removal of interest rate ceiling on 542
Life insurance death benefits 395
"Open-end" accounts 917, 1108
Small business loans 779
Tax assessments 1114
Usury with respect to household furniture loans 807

Internship Council, N. C.—creation 967

Intestate Succession—see Decedents' Estates

Investments:
Bonds and notes issued under Local Government Finance Act 403
Local governments 575
State-chartered savings and loan associations 593

Iredell County:
Statesville, City of—see that heading

Chapter

Iredell County:—continued
Wound reports 31

J

Jackson County:
Board of education absentee ballots 91
Webster, Town of—see that heading

Jails—see Correctional Institutions

Jobs for Veterans Committee, Governor's—creation 1032

Johnston County:
Motor vehicle license tax 433
Smithfield, Town of—see that heading

Jones County:
ABC board appointment by board of commissioners 588
Bingo 157

Judges—see Courts

Judicial Districts—see Courts

Junk—see Environment and Sanitation

Juries:
Anti-trust cases, mandatory jury requirement in 707
Computer tapes for jury lists 220
Instructions in criminal cases 776
Standard jury charges, development of—appropriation 1119

Jurisdiction—see Civil Procedure and Criminal Procedure

Justices—see Courts

Justice, State Department of:
Attorney General:
Contracts, participation in execution of public 733
Environmental Management Commission rules, filing of 374
Investigations of fires 596
Milk Commission rules filed with 629
Salary 802
School bus mechanics defense 935
Bridge injury settlement appropriation 942

Juvenile Delinquency—see Minors

K

Kannapolis, Village of—election and terms of board of education 145

Keep North Carolina Beautiful, Inc.—appropriation 1072

Chapter

Kenansville, Town of—land sale or lease 257

Kindergartens—see Schools

Kinston, City of:
Grade school district board of trustees 34
Land sale or lease 273

L

Labor (see also Employment Security, and Employment Security Commission):
Assistance in obtaining State employment 397
Child:
Sexual discrimination 551
Waiver of child labor laws by Commissioner 583
Employment certificate, proof of age for 82
Equal Employment Practices Act 726
Governmental employees, interchange of 783
Group life insurance involving multiple employers or labor unions 835
Maximum hour law exemption for florists on Valentine's Day 146
Minimum wage:
Increase 519
Seasonal recreational employees 672
Theater employees 672
OSHA:
Consultants appropriation 1040
Equipment appropriation 1041
Tips:
Payment to intended person 826
"Tipped employees" definition 653

Labor, Commissioner of—waiver of child labor laws 583

Labor Force Development Council—creation 198

Labor, State Department of—elevator inspection fees 983

LaGrange, Town of—district court 121

Landlord and tenant:
Residential rental units:
Maintenance 770
Security deposits 914
Visually handicapped person with guide dog, right to lease property of 659

Landscape Architects:
Professional corporations 855
Sunset law 712

Chapter

Landscape Contractors—sunset law 712

Law Enforcement Officers:
Concealed weapons 616
Deceased officers, badge and revolver to spouses of 548
Headlights, electronically modulated 104
Highway Patrol, N. C.—see that heading
Law enforcement agencies, cooperation among 534
Liability insurance study commission creation 979
Retirement—see that heading
Salaries, minimum 931
Sheriffs' relatives continue to hold jobs 36
State Bureau of Investigation:
Misuse of State property 763
Protection of public officials 571

Law Enforcement Officers Liability Insurance Study Commission—creation 979

Law, Practice of—see Attorneys at Law

Laws Amended or Repealed:
1806 Private Laws:
Chapter 43 744
1811 Private Laws:
Chapter 69 58
1818 Private Laws:
Chapter 100 58
1819 Private Laws:
Chapter 71 744
1825 Private Laws:
Chapter 146 744
1826 Private Laws:
Chapter 74 744
1828-29 Private Laws:
Chapter 150 58
1830-31 Private Laws:
Chapter 98 744
1840-41 Private Laws:
Chapter 6 724
1840-41 Public Laws:
Chapter 12 118
1844 Private Laws:
Chapter 49 101
1846-47 Private Laws:
Chapter 194 101

Chapter

Laws Amended or Repealed:—continued
1849 Private Laws:
Chapter 242 744
1850-51 Private Laws:
Chapter 326 118
Chapter 329 744
1854-55 Private Laws:
Chapter 246 118
Chapter 280 58
1856-57 Private Laws:
Chapter 120 101
1858-59 Private Laws:
Chapter 222 118
1862 Private Laws:
Chapter 16 101
1866-67 Private Laws:
Chapter 24 118
1868-69 Private Laws:
Chapter 18 101
Chapter 59 101
Chapter 109 101
1869-70 Private Laws:
Chapter 31 118
Chapter 45 118
Chapter 90 58
1869-70 Public Laws:
Chapter 124 118
Chapter 125 169
1870-71 Public Laws:
Chapter 77 101
1873-74 Private Laws:
Chapter 35 744
Chapter 58 118
Chapter 127 744
1874-75 Private Laws:
Chapter 65 118
1874-75 Public Laws:
Chapter 196 744
1876-77 Public Laws:
Chapter 205 744
Chapter 236 744
1879 Private Laws:
Chapter 119 744

Chapter

Laws Amended or Repealed:—continued
1881 Public Laws:
Chapter 85 101
1883 Private Laws:
Chapter 93 211
Chapter 101 78
Chapter 127 118
Chapter 154 744
1885 Private Laws:
Chapter 13 744
Chapter 23 118
Chapter 29 688
1889 Private Laws:
Chapter 46 744
Chapter 136 744
Chapter 209 117
Chapter 243 744
1891 Private Laws:
Chapter 108 20
Chapter 114 101
Chapter 159 117
Chapter 198 263
Chapter 232 744
Chapter 244 744
1893 Private Laws:
Chapter 50 263
1895 Private Laws:
Chapter 68 58
Chapter 170 744
Chapter 286 101
Chapter 296 117
1895 Public Laws:
Chapter 310 101
1897 Private Laws:
Chapter 94 744
1897 Public Laws:
Chapter 199 744
Chapter 479 118
1899 Private Laws:
Chapter 183 101
Chapter 314 263
Chapter 325 744
1899 Public Laws:
Chapter 460 744

Chapter

Laws Amended or Repealed:—continued
1899 Public Laws:—continued
Chapter 581 352
1901 Private Laws:
Chapter 8 744
Chapter 9 744
Chapter 14 744
Chapter 73 101
Chapter 90 58
Chapter 103 744
Chapter 149 101
Chapter 221 118
Chapter 224 5
Chapter 315 118
Chapter 428 101
1901 Public Laws:
Chapter 729 352
1903 Private Laws:
Chapter 85 744
Chapter 86 744
Chapter 133 263
Chapter 140 118
Chapter 247 101
1903 Public Laws:
Chapter 769 118
1905 Private Laws:
Chapter 71 744
Chapter 91 225
Chapter 167 118
Chapter 226 744
Chapter 358 333
Chapter 383 744
Chapter 391 744
Chapter 418 688
1905 Public Laws:
Chapter 346 113
1907 Private Laws:
Chapter 27 744
Chapter 83 118
Chapter 197 333
Chapter 344 744
Chapter 356 58
Chapter 369 101
Chapter 444 744

Chapter

Laws Amended or Repealed:—continued
1907 Private Laws:—continued
Chapter 483 744
Chapter 494 744
1907 Public Laws:
Chapter 882 58
1908 (Extra Session) Private Laws:
Chapter 47 744
Chapter 50 58
1909 Private Laws:
Chapter 14 58
Chapter 26 118
Chapter 37 118
Chapter 73 101
Chapter 83 118
Chapter 244 117
Chapter 291 101
Chapter 368 58
Chapter 377 58
1911 Private Laws:
Chapter 41 744
Chapter 75 495
Chapter 105 101
Chapter 169 495
Chapter 184 495
Chapter 191 495
Chapter 227 744
Chapter 231 58
Chapter 257 495
Chapter 395 744
Chapter 461 495
1913 Private Laws:
Chapter 101 744
Chapter 144 263
Chapter 169 225
Chapter 186 744
Chapter 226 58
Chapter 248 118
Chapter 274 326
Chapter 278 58
Chapter 317 225
Chapter 355 495
Chapter 368 744
Chapter 381 495

Chapter

Laws Amended or Repealed:—continued
1913 Private Laws:—continued
Chapter 449 744
Chapter 468 210
Chapter 473 495
1913 (Extra Session) Private Laws:
Chapter 236 495
1913 Public-Local Laws:
Chapter 316 495
Chapter 637 117
1915 Private Laws:
Chapter 27 495
Chapter 106 225
Chapter 109 326
Chapter 121 101
Chapter 148 495
Chapter 164 118
Chapter 202 118
Chapter 240 271
Chapter 286 263
Chapter 317 101
1917 Private Laws:
Chapter 19 101
Chapter 54 101
Chapter 66 263
Chapter 84 263
Chapter 103 101
Chapter 104 118
Chapter 191 58
1917 Public-Local Laws:
Chapter 487 263
1919 Private Laws:
Chapter 1 495
Chapter 8 101
Chapter 14 744
Chapter 19 744
Chapter 42 101
Chapter 123 58
Chapter 141 495
Chapter 149 495
Chapter 152 495
Chapter 154 495
Chapter 157 495
Chapter 159 495

Chapter

Laws Amended or Repealed:—continued
1919 Private Laws:—continued
Chapter 160 58
Chapter 161 58
Chapter 162 495
Chapter 164 495
1920 (Extra Session) Private Laws:
Chapter 14 744
Chapter 31 101
Chapter 34 263
1921 Private Laws:
Chapter 2 495
Chapter 5 495
Chapter 57 495
Chapter 123 225
Chapter 143 225
Chapter 153 495
Chapter 157 495
Chapter 161 101
Chapter 199 744
Chapter 209 495
Chapter 215 495
Chapter 247 744
1921 (Extra Session) Private Laws:
Chapter 4 495
Chapter 5 495
Chapter 9 101
Chapter 69 495
Chapter 73 495
Chapter 85 225
Chapter 117 744
Chapter 138 225
Chapter 148 495
1921 Public-Local Laws:
Chapter 385 282
1923 Private Laws:
Chapter 1 118
Chapter 110 744
Chapter 115 744
Chapter 118 495
Chapter 124 744
Chapter 137 495
Chapter 159 58
Chapter 162 101

Chapter

Laws Amended or Repealed:—continued
1923 Private Laws:—continued
Chapter 189 495
Chapter 192 495
Chapter 214 495
Chapter 218 688
Chapter 224 495
Chapter 226 495
Chapter 228 495
Chapter 236 118
Chapter 266 118
Chapter 267 263
1923 Public-Local Laws:
Chapter 85 495
Chapter 252 495
1924 (Extra Session) Private Laws:
Chapter 42 118
Chapter 44 101
Chapter 45 495
1924 (Extra Session) Public-Local Laws:
Chapter 135 495
Chapter 190 495
1925 Private Laws:
Chapter 9 495
Chapter 28 322
Chapter 104 744
Chapter 118 495
Chapter 119 495
Chapter 128 101
Chapter 153 744
Chapter 168 495
Chapter 176 495
Chapter 190 744
1925 Public-Local Laws:
Chapter 302 495
1927 Private Laws:
Chapter 51 179
Chapter 110 495
Chapter 162 744
Chapter 183 118
Chapter 224 222
1927 Public Laws:
Chapter 100 283

Chapter

Laws Amended or Repealed:—continued
1929 Private Laws:
Chapter 41 118
Chapter 103 101
Chapter 108 744
Chapter 109 744
Chapter 116 225
Chapter 136 495
Chapter 185 722
1929 Public-Local Laws:
Chapter 353 495
1931 Private Laws:
Chapter 17 495
Chapter 89 118
Chapter 106 101
Chapter 136 495
Chapter 163 101
Chapter 176 495
Chapter 179 495
Chapter 180 495
1933 Private Laws:
Chapter 97 225
Chapter 107 118
Chapter 136 744
Chapter 153 333
Chapter 159 225
Chapter 167 495
Chapter 173 118
Chapter 193 495
Chapter 200 118
1933 Public-Local Laws:
Chapter 94 495
Chapter 191 495
Chapter 299 444
1935 Private Laws:
Chapter 15 495
Chapter 42 495
Chapter 53 724
Chapter 68 118
Chapter 97 495
Chapter 101 145
Chapter 104 847
Chapter 179 495
Chapter 209 495

Chapter

Laws Amended or Repealed:—continued
1935 Private Laws:—continued
Chapter 219 263
Chapter 246 495
Chapter 265 744
1935 Public-Local Laws:
Chapter 42 ..... 17, 495
Chapter 73 495
Chapter 170 495
Chapter 310 495
Chapter 316 495
Chapter 352 495
Chapter 389 495
Chapter 390 495
Chapter 407 495
Chapter 503 495
Chapter 510 495
Chapter 551 58
1937 Private Laws:
Chapter 26 495
Chapter 29 744
Chapter 31 495
1937 Public-Local Laws:
Chapter 8 495
Chapter 70 495
Chapter 133 688
Chapter 144 248
Chapter 158 744
Chapter 252 492
Chapter 329 744
Chapter 402 248
Chapter 447 495
Chapter 471 495
Chapter 483 495
Chapter 517 117
Chapter 535 350
Chapter 620 333
1939 Private Laws:
Chapter 490 479
1939 Public-Local Laws:
Chapter 98 724
Chapter 224 495
Chapter 231 248
Chapter 242 188

Chapter

Laws Amended or Repealed:—continued
1939 Public-Local Laws:—continued
Chapter 243 188
Chapter 268 495
Chapter 272 263
Chapter 324 495
Chapter 332 263
Chapter 367 744
Chapter 451 205
Chapter 470 495
Chapter 513 495
Chapter 520 495
Chapter 521 495
Chapter 616 495
1941 Private Laws:
Chapter 10 495
Chapter 17 495
1941 Public Laws:
Chapter 300 847
1941 Public-Local Laws:
Chapter 1 495
Chapter 50 495
Chapter 84 346
Chapter 96 495
Chapter 131 118
Chapter 179 495
Chapter 189 744
Chapter 223 495
Chapter 240 58
Chapter 272 495
Chapter 364 495
Chapter 441 495
Chapter 476 495
1943 Session Laws:
Chapter 148 744
Chapter 247 170
Chapter 258 495
Chapter 544 495
Chapter 563 495
Chapter 618 495
Chapter 685 495
Chapter 704 279
Chapter 708 495

Chapter

Laws Amended or Repealed:—continued
1945 Session Laws:
Chapter 82 744
Chapter 83 744
Chapter 188 495
Chapter 310 188
Chapter 311 188
Chapter 369 58
Chapter 374 495
Chapter 406 602
Chapter 453 495
Chapter 456 495
Chapter 478 744
Chapter 587 495
Chapter 602 495
Chapter 623 744
Chapter 684 495
Chapter 841 495
Chapter 858 495
Chapter 874 225
Chapter 921 495
1947 Session Laws:
Chapter 1 263
Chapter 39 58
Chapter 49 58
Chapter 479 495
Chapter 608 744
Chapter 615 118
Chapter 691 495
Chapter 716 744
Chapter 768 495
Chapter 792 101
Chapter 793 101
Chapter 841 248
Chapter 883 495
1949 Session Laws:
Chapter 377 744
Chapter 395 495
Chapter 494 744
Chapter 495 744
Chapter 567 744
Chapter 684 495
Chapter 687 495
Chapter 780 495

Chapter

Laws Amended or Repealed:—continued
1949 Session Laws:—continued
Chapter 886 744
Chapter 993 323
Chapter 1107 263
Chapter 1142 263
Chapter 1151 281
Chapter 1254 495
1951 Session Laws
Chapter 240 641
Chapter 289 744
Chapter 445 118
Chapter 474 495
Chapter 603 225
Chapter 670 742
Chapter 839 263
Chapter 840 263
Chapter 841 263
Chapter 880 495
Chapter 881 495
Chapter 906 495
Chapter 918 495
Chapter 973 495
Chapter 1073 524
Chapter 1124 495
Chapter 1159 101
Chapter 1175 495
Chapter 1223 742
Chapter 1225 495
1953 Session Laws:
Chapter 69 495
Chapter 210 333
Chapter 247 333
Chapter 303 744
Chapter 309 101
Chapter 321 495
Chapter 388 101
Chapter 398 263
Chapter 553 495
Chapter 554 495
Chapter 559 263
Chapter 562 117
Chapter 581 495
Chapter 591 325

Chapter

Laws Amended or Repealed:—continued
1953 Session Laws:—continued
Chapter 614 495
Chapter 676 495
Chapter 744 742
Chapter 1297 744
1955 Session Laws:
Chapter 66 744
Chapter 140 744
Chapter 299 248
Chapter 320 188
Chapter 322 188
Chapter 355 688
Chapter 417 101
Chapter 426 495
Chapter 459 333
Chapter 496 247
Chapter 585 742
Chapter 665 744
Chapter 687 744
Chapter 765 263
Chapter 876 117
Chapter 1005 225
Chapter 1009 495
Chapter 1180 744
Chapter 1299 263
Chapter 1300 263
Chapter 1356 495
1957 Session Laws:
Chapter 16 159
Chapter 29 495
Chapter 207 58
Chapter 300 744
Chapter 410 744
Chapter 460 495
Chapter 470 495
Chapter 554 248
Chapter 602 495
Chapter 615 495
Chapter 633 333
Chapter 755 58
Chapter 888 58
Chapter 956 213
Chapter 976 744

Chapter

Laws Amended or Repealed:—continued
1957 Session Laws:—continued
Chapter 1098 495
Chapter 1436 190
1959 Session Laws:
Chapter 66 744
Chapter 89 495
Chapter 307 333
Chapter 427 495
Chapter 596 688
Chapter 648 495
Chapter 667 289
Chapter 716 381
Chapter 773 444
Chapter 810 133
Chapter 881 101
Chapter 952 152
Chapter 1044 495
Chapter 1047 495
Chapter 1048 495
Chapter 1052 289
Chapter 1073 ..... 35, 72
Chapter 1193 744
Chapter 1257 448
1961 Session Laws:
Chapter 87 274
Chapter 182 62
Chapter 427 744
Chapter 522 248
Chapter 606 847
Chapter 664 333
Chapter 799 212
Chapter 887 289
Chapter 923 276
Chapter 929 248
Chapter 1003 234
1963 Session Laws:
Chapter 3 847
Chapter 37 263
Chapter 67 272
Chapter 126 22
Chapter 197 333
Chapter 258 744
Chapter 259 744

Chapter

Laws Amended or Repealed:—continued
1963 Session Laws:—continued
Chapter 347 58
Chapter 357 263
Chapter 390 58
Chapter 391 37
Chapter 398 118
Chapter 508 58
Chapter 546 32
Chapter 642 847
Chapter 719 289
Chapter 795 688
Chapter 902 333
Chapter 936 54
Chapter 1055 289
Chapter 1250 641
1965 Session Laws:
Chapter 36 439
Chapter 217 847
Chapter 222 744
Chapter 497 287
Chapter 508 58
Chapter 534 289
Chapter 608 68
Chapter 713 ..... 140, 141, 179
Chapter 738 289
Chapter 760 640
Chapter 775 289
Chapter 788 289
Chapter 946 248
Chapter 983 210
1967 Session Laws:
Chapter 195 33
Chapter 261 216
Chapter 313 248
Chapter 421 847
Chapter 422 847
Chapter 477 14
Chapter 487 118
Chapter 576 333
Chapter 597 333
Chapter 665 101
Chapter 748 58
Chapter 757 289

Chapter

Laws Amended or Repealed:—continued
1967 Session Laws:—continued
Chapter 813 248
Chapter 841 459
Chapter 951 459
Chapter 1106 301
Chapter 1147 744
1969 Session Laws:
Chapter 8 118
Chapter 120 263
Chapter 221 744
Chapter 393 333
Chapter 447 289
Chapter 471 289
Chapter 617 ..... 263, 744
Chapter 697 200
Chapter 922 151
Chapter 966 326
1971 Session Laws:
Chapter 4 ..... 31, 843
Chapter 38 263
Chapter 67 263
Chapter 73 224
Chapter 102 274
Chapter 333 263
Chapter 413 744
Chapter 503 161
Chapter 594 ..... 31, 843
Chapter 627 ..... 66, 157
Chapter 664 289
Chapter 686 ..... 248, 816
Chapter 693 194
Chapter 721 248
Chapter 760 445
Chapter 761 247
Chapter 787 207
Chapter 978 118
Chapter 1007 955
Chapter 1203 532
1973 Session Laws:
Chapter 101 69
Chapter 119 532
Chapter 157 208
Chapter 209 353

Chapter

Laws Amended or Repealed:—continued
1973 Session Laws:—continued
Chapter 214 289
Chapter 246 41
Chapter 257 89
Chapter 282 247
Chapter 346 76
Chapter 351 208
Chapter 361 724
Chapter 383 263
Chapter 388 15
Chapter 398 174
Chapter 416 142
Chapter 418 289
Chapter 509 289
Chapter 523 195
Chapter 617 1029
Chapter 692 194
Chapter 766 931
Chapter 920 69
Chapter 936 ..... 33, 744
Chapter 1057 6
Chapter 1184 744
Chapter 1192 248
Chapter 1250 608
Chapter 1268 724
Chapter 1418 1089
Chapter 1457 1122
1975 Session Laws:
Chapter 20 744
Chapter 30 289
Chapter 35 444
Chapter 116 847
Chapter 123 537
Chapter 146 56
Chapter 152 744
Chapter 162 354
Chapter 168 172
Chapter 180 299
Chapter 260 542
Chapter 263 1
Chapter 269 ..... 106, 167
Chapter 282 296
Chapter 324 678

Chapter

Laws Amended or Repealed:—continued
1975 Session Laws:—continued
Chapter 341 ..... 46, 108
Chapter 342 43
Chapter 343 45
Chapter 360 888
Chapter 375 113
Chapter 473 330
Chapter 628 491
Chapter 649 226
Chapter 657 249
Chapter 671 ..... 255, 632
Chapter 687 55
Chapter 691 247
Chapter 717 321
Chapter 868 180
Chapter 869 846
Chapter 903 931
Chapter 918 195
Chapter 929 291
Chapter 965 1088
Chapter 980 244
1977 Session Laws:
Chapter 16 270
Chapter 18 150
Chapter 31 843
Chapter 33 744
Chapter 167 500
Chapter 187 647
Chapter 248 540
Chapter 307 834
Chapter 308 609
Chapter 415 530
Chapter 433 880
Chapter 450 925
Chapter 460 780
Chapter 468 913
Chapter 469 680
Chapter 527 816
Chapter 606 728
Chapter 917 1108

Lawyers—see Attorneys at Law

Chapter

Leases:
Department of Administration:
Bid proposals 485
State land 425
Landlord and tenant—see that heading

Lee County:
Bingo and raffles 365
Board of education name change 204
Hunting foxes 636
Sanford, City of—see that heading

Legislative Services Commission—see General Assembly

Legislature—see General Assembly

Lenoir, City of—charter 118

Lenoir County:
ABC board:
Appointment by board of commissioners 587
Contracts with local law enforcement agency 606
District court additional seat 121
Kinston, City of—see that heading
LaGrange, Town of—see that heading
Land sale or lease 273
Mapping:
Photostatic copies 111
Requirements 50
Violations 110

Lenoir County Historical Association, Inc.— appropriation 1058

Liberty Cart Drama—appropriation 986

Liberty, Town of—street improvements 392

Libraries:
Cooperative library development 645
Librarians, certification of—sunset law 712
Regional libraries, eligibility for participation in Local Governmental Employees' Retirement System of employees of 318

License Plates—see Motor Vehicles: Registration Plates

Licenses and Licensing:
Accountants:
Experience requirement 804
Sunset law 712
Audiologists:
Licensing requirements exemption 692
Sunset law 712

Chapter

Licenses and Licensing:—continued
Chiropractors:
License fees 922
Sunset law 712
Cosmetologists:
Apprenticeship requirement 899
Sunset law 712
Dealers'-Manufacturers' License Fund abolished 802
Drivers' licenses—see Motor Vehicles
Fishing licenses—see Fish and Fishing
Funeral directors:
Relocation of graves 311
Sunset law 712
House movers:
Licensing board abolished 579
Regulation 720
Sunset law 712
Hunting licenses—see Hunting
Insurance agents for fraternal societies 718
License plates—see Motor Vehicles: Registration Plates
Marriage licenses—see Marriage
Mental health facilities:
Licensing authority 739
Sunset law 712
Nursing home administrators license renewal fee 652
Occupational licensing boards:
Boiler and Pressure Vessel Rules, Board of— membership 788
Child Day-Care Licensing Commission injunctive powers 4
Chiropractic Examiners, N. C. State Board of— licensing requirements 1109
Code Officials Qualification Board creation 531
House Movers Licensing Board abolished 579
Law Examiners, Board of—membership 841
Medical Examiners, Board of—revocation or suspension of licenses 838
Pesticides Board:
Applicators' licenses:
Pilots 1125
Transfer 100
Emergency exemptions 199
Sunset law 712
Pharmacy, State Board of:
Reciprocity 598

Chapter

Licenses and Licensing:—continued
Occupational licensing boards:—continued
Sunset law 712
Private Protective Services Board:
Expansion 535
Sunset law 712
Speech and Language Pathologists and Audiologists, Board of Examiners for:
Licensing requirements—exemption 692
Sunset law 712
Sunset law—termination of certain State agencies 712
Opticians:
Qualifications 755
Sunset law 712
Optometry:
Practice definition 482
Sunset law 712
Physicians:
Qualifications 838
Sunset law 712
Podiatrists:
License renewal fee 621
Sunset law 712
Private protective services:
Board membership increased 535
Company police eligibility for license 570
Sunset law 712
Temporary employment of person licensed in another state 570
Psychologists:
Licensing amendments 670
Sunset law 712
Speech and language pathologists:
Licensing requirements exemption 692
Sunset law 712

Liens:
Form for filing liens 369
Lis pendens, filing notice of 883
Mechanics' liens cases heard by magistrate 86
Notice of sale technical amendment 74
Partition sale—unsatisfied liens 833
Storage liens:
Enforceable within 120 days of default 793
Heard by magistrate 86

Chapter

Lieutenant Governor:
Chairman of Joint Legislative Commission on Governmental Operations 988
Consecutive terms, proposed amendment to N. C. Constitution allowing 363
Salary 802
State-owned vehicles and aircraft, use of 802

Lincoln County:
Airport 286
Bingo 66
Lincolnton, City of—see that heading
Personal property, governmental disposal of 349

Lincolnton, City of:
Firemen's supplemental retirement benefits 353
Joint airport with Cherryville 200
Joint airport with Lincoln County 286

Linseed Oil—see Agriculture

Liquified Petroleum Gases—safety standards 410

Liquors—see Alcoholic Beverages

Litter (see also Environment)—rewrite of criminal law 887

Livestock:
Dealers, licensing of—sunset law 712
Market permits and fees 132
Public Livestock Advisory Board—see that heading
Slaughterhouses, inspection of—sunset law 712
Swine:
Pseudorabies surveillance appropriation 1044
Regulation of feed—sunset law 712

Loans (see also Interest):
Committed funds, applicability of interest restrictions to 778
Energy conservation loans by Housing Finance Agency 1083
Non-profit corporations 779
Political campaign reports 635
Repayment methods of savings and loan associations 594
Secondary mortgages, requiring insurance for 698
Small business loans, interest rate on 779
Usury on household furniture loans 807

Lobbying—see General Assembly

Locust, Town of—charter 41

Lower Cape Fear Water and Sewer Authority—grant advance 802

Chapter

Lucama, Town of—charter 117

Mc

McDowell County:
Ambulance services, garnishment for 64
Bingo 491
Marion, City of—see that heading
Motor vehicle license tax 433

M

Mace—see Weapons

Macon County:
Board of education election 301
Highlands, Town of—see that heading

Madison County:
Board of education election, absentee ballots in 91
Motor vehicle license tax 433

Magistrates—see Courts

Magnolia, Town of—annexation 396

Malcolm Blue Historical Society—appropriation 1080

Manual, N. C.—see Publications, State

Marijuana—see Drugs

Marine Fisheries Commission:
Reorganization 512
Sunset law 712

Marion, City of—charter 101

Marriage:
Actions against married women 545
Ceremonies, sexual discrimination in marriage 592
Clerks of courts' spouses 546
Criminal conversation cases, testimony of spouse in 547
Certificates, marriage—certified copy fee 1110
Discrimination:
Racial 107
Sexual:
Actions against married women 545
Ceremonies 592
Clerk of court's spouse 546
Criminal conversation 547
Law enforcement officers, badge and revolver to spouse of deceased 548

Chapter

Marriage:—continued
Discrimination:—continued
Private examination of married women 375
Law enforcement officers, badge and revolver to spouse of deceased 548
Licenses:
Fee for certified copy 310
Rubella immunity test for female applicants 428
Private examination of married women 375

Martin County:
ABC board selection of members 417
Hunting:
Foxes 636
From public highways 89
Wound reports 843

Master and Servant—see Labor

Maternity Homes—regulation of, sunset law 712

Mecklenburg County:
Ambulance services:
Garnishment 64
Obtaining services without intention to pay 63
Bingo 491
Charlotte, City of—see that heading
Civil service 174
Cornelius, Town of—see that heading
Davidson, Town of—see that heading
Huntersville, Town of—see that heading
Mint Hill, Town of—see that heading
Wound reports 31

Medicaid—see Social Services

Medical Care Commission, N. C.—exercise of commission powers by executive committee 267

Medical Services (see also Hospitals, and Physicians and Surgeons):
Health and welfare agencies, non-State—requests for grants 802
Health care institutions, State—direct patient care 802
Infirmaries of University of N. C. exemption from governmental sales restrictions 715
Minors:
Emergencies, provision of services over parental objection in 625
Provision of services without parental consent 582
Nursing homes:
Administrators license renewal fee 652
Inspections without notice 656

Chapter

Medical Services (see also Hospitals, and Physicians and Surgeons):—continued
Nursing homes:—continued
Patients' rights 897
Sunset law 712
Psychological services, patients' freedom of choice of 601
Rest homes, use of appropriated funds for 802
State programs (non-Medicaid):
Adjustments in benefit requirements 802
Payment schedules 802

Medicine—see Public Health, Physicians and Surgeons, and Medical Services

Meherrin River—firearm restrictions 67

Mental Health (see also Insanity):
Area mental health programs 568
Commitment, involuntary:
N. C. Memorial Hospital 738
Petitioners:
Notice of hearing 414
Representation 1126
Retarded persons, dangerous 400
Community mental health centers inpatient services 802
Community mental health programs, use of appropriated funds for 802
Correction, State Department of:
Cooperation with other agencies in providing mental health services 297
Standards for mental health services 332
Counsel at regional psychiatric facilities, appellate division advance sheets for 721
County programs, recovery of indirect costs of 876
Drivers' licenses denied for physical or mental disabilities, resubmission of application for 840
Facilities:
Licensing 739
Sunset law 712
Incompetents:
Guardianship rewrite 725
Sexual discrimination 102
Minors, confidentiality of records of 696
Mental Health Services, Commission for—see that heading
Psychological services, patients' freedom of choice of 601
Retarded persons, involuntary commitment of dangerous 400
Study Commission extension 184

Chapter

Mental Health Advisory Council—name change and conformation with federal aid requirements 694

Mental Health Services, Commission for:
Membership 679
Standards for mental health services for prisoners 332

Mental Health Study Commission—extension 184

Mentally Ill and Developmentally Disabled, Advocacy Council for the—creation 822

Mesic, Town of—corporate limits 533

Metric System—alcoholic beverage control statutes 176

Midwives—sunset law 712

Migrant Farm Workers—burial 648

Military and Veterans Affairs, State Department of—see Crime Control and Public Safety, State Department of

Militia:
Discrimination, sexual 553
N. C. National Guard:
Civilian medals and awards 796
Medals 230
Tuition assistance:
Limitation on transfer of funds 802
Program creation 228
Unit citations 229

Milk Commission, N. C.:
"Milk" definition and commission powers 426
Rules of commission, filing with Attorney General of 629
Sunset law 712

Mill Machinery—maximum sales tax 903

Mine Safety and Health Advisory Council—membership 683

Mines and Mining:
Mining Act of 1971 technical amendments 845
Sunset law 712

Mining Commission, N. C.—sunset law 712

Minimum Wage—see Labor

Minors (see also Parent and Child):
Abused children—see Neglected and abused children, this heading
Adoption—see Parent and Child
Blood donation by seventeen-year-olds 373
Child labor laws, waiver by Commissioner of Labor of 583
Children with special needs—see Schools

Chapter

Minors (see also Parent and Child):—continued
Child support:
Inadequate support of illegitimate children 3
Sexual discrimination 501
Custody:
Abused and neglected children 786, 901
Immediate custody order for abused children 901
Removal of custody from parent, periodic judicial review of 1121
Sexual discrimination 501
Day care—see that heading
Discrimination, sexual:
Custody 501, 713
Labor 551
Runaways 552
Support 501
Wills recommending custody and tuition of minor children 713
Employment certificates, proof of age for 82
Gifts to minors, legal custodians of 463
Health services:
Emergency, provision of services over parental objection in 625
Provision without parental consent 582
Illegitimate children—see Parent and Child
Juvenile proceedings:
Community-based alternatives to detention 291
Guardian *ad litem* for neglected child 766
Labor, child—sexual discrimination 551
Mental health records, confidentiality of 696
Neglected and abused children:
Guardian *ad litem* 766
Immediate custody order 901
Reporting 786
Presidential primary, seventeen-year-olds vote in 19
Public assistance "dependent child" definition 1127
Runaways 552
Status offender commitment effective date 291
Wills recommending custody and tuition of minor children 713

Mint Hill, Town of—eminent domain 224

Mitchell Community College—see Colleges and Universities

Mitchell County—hunting:
Boar 68
With traps 765

Mobile Homes—see Motor Vehicles

Chapter

Montgomery County:
Equalization and review board 215
Wound reports 31

Moore County:
Board of education nonpartisan election 442
Cameron, Town of—see that heading
Foxfire Village, Town of—see that heading
Pinebluff, Town of—see that heading
Pinehurst, Town of—see that heading
Pistol permits 235
Southern Pines, Town of—see that heading
Trapping 765

Morehead City Navigation and Pilotage Commission—sunset law 712

Morganton, Town of—charter and corporate limits 299

Mortgages and Deeds of Trust:
Chattel mortgages of public utilities, recordation of 103
Corporate deeds of trust curative statute 40
Foreclosure sales 359
Housing authorities 784
Interest rate ceiling on first mortgages 542
Land parcel identifier numbers 589
Satisfaction, entry of—computerized indexes 1107
Secondary mortgages, requiring insurance for 698

Morticians—license requirement for relocation of graves 311

Morton Pritchard Alcoholic Rehabilitation Farm—appropriation 1091

Motorcycles—see Motor Vehicles

Motor Vehicles:
Accidents, reduction of speed to avoid 367
Acknowledgement of signatures by Division of Motor Vehicles 785
Alcoholic beverages, driving under influence of:
Breathalyzer test requested by driver 812
Driver training 116
Buses:
Injured pupil payments appropriation 1024
School activity bus drivers' qualifications 1102
School mechanics defense by Attorney General 935
Speed limit for buses carrying children with special needs 791
Carpools:
Exemption from definition of "for-hire passenger vehicles" 313
Parking priority 119

Chapter

Motor Vehicles:—continued
Chauffeurs' renewal of licenses 354
Dealers, motor vehicle—bonds and "established place of business" definition 560
Division of:
Acknowledgement of signatures 785
Weight station personnel disability benefits 889
Drivers' licenses:
Chauffeurs' license renewal 354
Limited driving privileges 125
Mental or physical disabilities, denial of driving privileges for 840
Motorcycle licenses, special examinations for 865
Proof of age for employment certificate, use for 82
Safe drivers' renewal 6
Tests:
Chauffeurs' license 354
Motorcycle operators 865
Safe drivers 6
Violation points for speeding in school zone 902
Drunken driving—see Alcoholic beverages, driving under influence of, this heading
Farm materials, vehicles carrying—weight restrictions 461
Fee for driver education programs 1002
Habitual offenders 243
Headlights:
Electronically modulated 104
Failure to stop within radius 470
Insurance—see that heading
License plates—see Registration plates, this heading
Liens on motor vehicles, mechanics' and storage— heard by magistrate 86
Manufacturers, motor vehicle—bonds and "established place of business" definition 560
Mobile home movers' transporter plates 304
Motor clubs and associations—sunset law 712
Motorcycles:
Driver's license special examinations 865
Headlights, electronically modulated 104
Parking:
Carpools 119
Handicapped persons:
Priority 119
Time limits 340
Hospitals 178

Chapter

Motor Vehicles:—continued
Parking:—continued
Religious institutions, public parking without reduction of property tax exemption for 867
Registration plates:
Fee for driver education programs 1002
Firemen 773
Historic vehicles 572
Permanent, transfer of 370
Prisoners of war 227
Rescue squad members 773
Semi-permanent plates for pick-up trucks, motorcycles and rental vehicles 337
State officials 762
Transporter plates for house trailer and mobile home movers 304
Reinsurance Facility, N. C. Motor Vehicle—see Insurance
Religious organizations traffic regulations 398
Sirens and red lights:
Civil defense directors and fire marshalls 52
Vehicles transporting human tissues and organs 438
Speed limits:
Buses transporting children with special needs 791
Reduce speed to avoid accidents 367
School zones 902
State-owned motor vehicles, Lieutenant Governor and Speaker using 802
Traffic regulation:
Criminal Justice Education and Training System Council, N. C. 831
Religious organizations 398
Unauthorized use of motor-propelled conveyances 919
Weight restrictions on vehicles transporting farm materials 461
Weight station personnel powers 319
Weight tolerance for trucks 638

Mountain Gateway Museum—appropriation 971

Mt. Airy, Town of—service districts 75

Mt. Olive, Town of:
Board of commissioners' and mayor's terms 476
Eminent domain 432

Municipal Corporations (see also Counties):
Aged:
Assessment collection postponed 203
Programs for 187, 647
Alcoholic beverages, consumption on public property of 693
Animals, regulating possession of dangerous 407

Chapter

Municipal Corporations (see also Counties):—continued
Annexations, proration of taxes following 517
Assessments—see Taxes and Assessments
Bikeways, gas tax funds for 808
Bonds:
Electricity generation systems 528
Refunding 201
Building inspection technical amendment 912
Contracts—see Contracts and Purchases
Disabled persons, assessment collection postponed for 203
Elections (see also that heading)—absentee ballots 475
Electricity generation:
Joint Municipal Electric Power and Energy Act amendments 385
Joint ownership with private entities:
Proposed constitutional amendment 528
Statutory changes 708
Peak load pricing 232
Employees:
Defense counsel 307
Interchange of governmental 783
Payment of judgments 834
Firemen:
Defense counsel 307
Payment of judgments 834
Housing standards technical amendment 912
Investments in savings and loan associations 575
Judgments against officers and employees 834
Nonprofit corporations receiving funds from cities 687
Population estimates for planning jurisdiction 882
Redevelopment, authority to acquire land for 660
Referendums on bonds for electricity generation systems 528
Rescue squads, defense counsel for 307
Sanitary districts, compensation of board members of 183
Service districts 775
Solid waste management 123
Subdivisions:
Enforcement of ordinances 820
Technical amendment 912
Taxation:
Property taxes:
Grace period 630
Historic property 869
Proration of taxes upon annexation 517

Chapter

Municipal Corporations (see also Counties):—continued
Transportation, public:
Authorities creation 465
Systems—inclusion in definition of "public enterprise" 514
Unemployment compensation pool account, local government 1124
Zoning technical amendments 912

Municipalities—see Municipal Corporations

Murder—see Crimes

Murfreesboro, Town of—Meherrin River firearm restrictions 67

Murphy, Town of—power board membership 213

Museums—see Cultural Resources

Mutual Burial Associations—see Insurance

Mutual Deposit Guaranty Associations—see Corporations

N

Nash County:
Castalia, Town of—see that heading
Dortches, Town of—see that heading
Nashville, Town of—see that heading
Trapping 758, 765

Nash County Historical Association, Inc.— appropriation 1054

Nashville, Town of—annexations 394

National Driving Center, Inc.—transfer 1029

National Guard—see Militia

National Park, Parkway and Forests Development Council, N. C.—transfer 198

Natural and Economic Resources, State Department of— see Natural Resources and Community Development, State Department of

Natural Resources and Community Development (formerly Natural and Economic Resources), **State Department of:**
Artificial reef fishing program transfer of funds 802
Broad Creek navigation improvement appropriation 982
Commercial and Sports Fisheries Advisory Committee reorganization 512
Economic Development, Division of—transfer 198
Employment and Training Council, N. C.—creation 771
Forest fire tractor plow unit appropriations:
Granville County 1057
Hoke and Cumberland Counties 948
Northampton County 948

Chapter

Natural Resources and Community Development (formerly Natural and Economic Resources), **State Department of:**—continued
Forest fire tractor plow unit appropriations:—continued
Wilson County 966
Forestry Services Headquarters buildings appropriations:
Alamance County 1020
Macon County 993
Northwestern N. C. 964
Wilkes County 963
Housing Finance Agency transfer 673
Marine Fisheries Commission:
Reorganization 512
Sunset law 712
National Park, Parkway and Forests Development Council, N. C.—transfer 198
Natural and Scenic Rivers System, acquisition of land along the New River for 555
Navigation projects appropriation 985
New River, acquisition of land along 555
Reorganization 771
Science and Technology Center transfer 198
Science and Technology Committee transfer 198
Seafood industry, notice of assessment for promotion of 356
Secretary's salary 802
Shellfish population increase appropriation 952
Soil mapping grants appropriation 1098
Tree seeds collection program, reversion of funds in 802
Wrightsville Beach berm improvements appropriation 1026

Navassa, Town of—incorporation 77

Navigation and Pilotage Commissions—transfer 65, 802

Negligence—see Torts and Tortfeasors

New Bern Academy Historical Commission—appropriation 1051

New Bern, City of—board of education compensation 139

New Hanover County:
ABC board contracts with local law enforcement agency 606
Assessments for navigation projects 153
Board of education:
Membership 449
Take office in December 37
Hunting deer 441
Land conveyance to United States 97
Motor vehicle license tax 433
Navigation projects assessment 153

Chapter

New Hanover County:—continued
Teachers' pension fund 282
Wilmington, City of—see that heading

New River—see Natural Resources and Community Development, State Department of

Noise—speedboats 737

Non-Profit Corporations—see Corporations

Northampton County—Meherrin River firearm restrictions 67

N. C. A.&T. State University—see Colleges and Universities

North Wilkesboro, Town of—charter 263

Notaries Public:
Curative statute 734
Fees 429

Nuclear Fuel—transportation of spent fuel 839

Nuisances—sale of obscene materials 819

Nurses:
Relationship with physicians' assistants 904
Sunset law 712

Nursing Homes—see Medical Services

O

Obscenity:
Adult establishments in single building limitation 987
Arrest without adversary hearing 440
Nuisances, abatement of 819

Occupational Diseases—see Workmen's Compensation

Occupational Licensing Boards—see Licenses and Licensing

Occupational Safety and Health, Advisory Council on—
membership 806

Officials, Public:
Campaign contribution reports 615
Former State officials dealing with State 761
License plates for State officials 762
Protection by State Bureau of Investigation 571
Transacting business with public utilities 240

Oil Pollution Control:
Sunset law 712
Technical amendment 858

Oil Recycling Program—creation 802

Chapter

Old Salem—appropriation 951

Olympics, Special—appropriation 1059

Onslow County:
Board of education:
Compensation 39
Nomination, election 525
Holly Ridge, Town of—see that heading
Map size 305
Trapping 695
Wound reports 31

Opticians:
Qualifications 755
Sunset law 712

Optometry:
Practice defined 482
Sunset law 712

Orange County:
Board of education election and membership 603
Carrboro, Town of—see that heading
Chapel Hill, Town of—see that heading
Voter registration in Chapel Hill elections for Durham County residents 274

Osteopathy—sunset law 712

Oysters—see Fish and Fishing

P

Pamlico County:
ABC board appointment by board of commissioners 825
Alliance, Town of—see that heading
Annexation 478
Bingo 157
Hunting foxes 636
Mesic, Town of—see that heading
Subdivisions 98

Paralegals—personnel classification for State employees 821

Parent and Child (see also Minors):
Adoption 879
Custody—see Minors
Guardian and ward—see that heading
Illegitimate children:
Inadequate support 3

Chapter

Parent and Child (see also Minors):—continued
Illegitimate children:—continued
Inheritance by father of intestate 757
Legitimation, birth certificate attached to petition for 83
Neglected 127
Paternity:
Acknowledgement during child's lifetime 591
Birth certificate attached to complaint 83
Termination of parental rights 879
Wills recommending custody and tuition of minor children 713

Parking—see Motor Vehicles

Parks, State:
Fort Macon State Park appropriation 1079
Proceeds from sales 1012
Study commission 1030

Parole Commission:
Mandatory parole for misdemeanants, notice and technical change concerning 624
Reorganization 704

Paroles—see Criminal Procedure

Partnerships:
Accountants filing of assumed name 384
Limited partnerships securities registration 162

Pasquotank County:
Ambulance services, obtaining—without intention to pay 63
Board of education terms, vacancies 8
Coroner 10
Elizabeth City, City of—see that heading

Pawnbrokers—records 361

Pembroke, Town of—district court 122

Pender County:
Assessments for navigation projects 153
Hunting:
Deer 441
With bait 585
With traps 805
Motor vehicle license tax 433
Navigation projects assessment 153
Topsail Beach, Town of—see that heading

Pensions—see Retirement

Permits—see Licenses and Licensing

Chapter

Perquimans County—coroner 94

Personnel Act, State—see Employees, State

Pesticide Applicators—see Licenses and Licensing

Pests:
Boll weevils 507
Structural Pest Control Act amendments 231

Pharmacy, State Board of—see Licenses and Licensing: Occupational licensing boards

Physical Therapists—sunset law 712

Physicians and Surgeons:
Chiropractors, practice definition and patients freedom of choice of 1109
Communications, privileged:
Release of 1118
Workmen's compensation 511
Consultation not required for sterilization 7
Minors:
Emergencies, provision of medical services over parental objections in 625
Provision of medical services without parental consent 582
Physicians' assistants giving instructions to nurses 904
Prescriptions, identification requirements for 421
Qualifications for practice 838
Sunset law 712

Picketing—obstruction of justice 266

Pikeville, Town of—election and terms of mayor and commissioners 20

Pinball Machines—exclusion from definition of slot machines 837

Pinebluff, Town of—terms of mayor and commissioners 326

Pinehurst, Town of:
Boundaries 226
Employees participating in Local Governmental Employees' Retirement System 323
Policemen participating in Law Enforcement Officer's Benefit and Retirement Fund 245

Pitt County:
Coroner 51
Farmville, Town of—see that heading
Greenville, City of—see that heading
Hunting with firearms from public roads 241
Technical institute conversion to community college, referendum on 567

Plumbing Contractors—sunset law 712

Chapter

Podiatrists:
License renewal fee 621
Sunset law 712

Police—see Law Enforcement Officers

Political Parties—see Elections

Polk County:
Hunting:
With firearms from public roads 241
With lights 167
Subdivision control 1
Wound reports 31

Pollution—see Environment

Poll Watchers—see Elections

Population—current estimates for municipal planning jurisdiction 882

Pornography—see Obscenity

Ports Authority, N. C.:
Secretary of Commerce appoint personnel 802
Transfer 65

Prepaid Legal Services—payroll deductions 88

Prescriptions—see Drugs

Primaries—see Elections

Princeville, Town of—charter 688

Principal and Income Act of 1973—citation 30

Principals—see Schools

Prisoners of War—see Armed Forces

Prisons and Prisoners—see Correctional Institutions

Private Protective Services—see Licenses and Licensing

Private Protective Services Board:
Expansion 535
Sunset law 712

Probate—see Wills, and Recordation of Instruments

Probation—see Criminal Procedure

Professional Corporations—see Corporations

Property, Stolen—restoration to owner before trial 613

Property Taxes—see Taxes and Assessments: Ad valorem property taxes

Psychological Services—see Mental Health

Chapter

Psychologists:
Licensing amendments 670
Sunset law 712

Publications, State:
Administrative Office of the Courts exemption 377
Annual reports of insurance companies 376
Appellate division advance sheets to psychiatric facility counsel 721
Distribution 379
Manual, N. C. 378
Secretary of State:
Cost of State publications 802
Session Laws, disposal of surplus 380

Public Health:
Board of Health, State—see Health, State Board of
Chronic renal disease:
Control program appropriation 1078
Tax exemption 1101
Cystic fibrosis program appropriation 1087
Departments (local):
County health programs, indirect costs of 876
Ground absorption sewage disposal permits 239
Meat and poultry processing facilities inspections 706
Rabid animals confinement 628
Sewers regulation 857
Hypodermic syringes disposal 907
Immunizations for rubella 160
Inspection services appropriation 976
Rabid animals confinement 628
Rubella:
Immunization 160
Test for female marriage license applicants 428

Public Instruction, State Department of:
Regional education centers for children with special needs appropriation 934
Superintendent's salary 802

Public Librarian Certification Commission—sunset law 712

Public Livestock Advisory Board:
Compensation 132
Sunset law 712

Public Utilities—see Utilities

Purchase and Contract, State—see Contracts and Purchases

Chapter

Q

Quail—regulation of pen-raised 905

R

Radiation Protection Act, N. C.—sunset law 712

Railroads—see Transportation

Raleigh, City of:
Annexations, effective dates of 351
Mall appropriation 1022
Redevelopment Commission private land sale 76
Rex Hospital—see Hospitals

Raleigh-Durham Airport Authority—compensation 28

Randolph County:
Ambulance services, garnishment for 357
Cosmetology 472
Wound reports 843

Rape—see Crimes

Raynham, Town of—board of commissioners:
Number, terms 16
Technical correction 270

Real Estate—see Real Property

Real Property:
Bar, N. C. State—authorization to possess and convey property 841
Business trusts, ownership and conveyance by 768
Counties, conveyances by—curative statute 1103
Grants from State, registration period for 701
Land parcel identifier numbers 589
Medicaid, transfer of real property to qualify for 595
Partition sales—unsatisfied liens 833
Real estate brokers and salemen—sunset law 712
Registers of Deeds—see that heading
Tax foreclosure sales, statute of limitations for recovery actions after 886

Recordation of Instruments (see also Deeds and Conveyances):
Curative statutes:
Corporate deeds 40
Instruments without seals 165
Grants from State, registration period for 701
Land parcel identifier numbers 589
Land title registration fees 774
Satisfaction of mortgages, entry of—computerized indexes 1107

Chapter

Records—expunction of:
Identification of expunged records of minors 642
Traffic violations 699

Red Oak, Town of—terms of board of commissioners and mayor 212

Referendums—see Elections

Reformatories—see Correctional Institutions

Refrigeration Contractors—sunset law 712

Refugees—in-State tuition status 590

Registers of Deeds:
Assistant or deputy registers, acts validated of 124
Land parcel identifier numbers 589
Relatives of registers continuing to hold jobs 36
Satisfaction of mortgages, entry of—computerized indexes 1107

Registration—see Motor Vehicles and Recordation of Instruments

Religious Institutions—public parking without loss of tax exemption 867

Rendering Plants—sunset law 712

Rennert, Town of—incorporation 300

Reorganization of State Departments:
Commerce 198
Crime Control and Public Safety 70
Military and Veterans Affairs 70
Natural and Economic Resources 771
Natural Resources and Community Development 771
Transportation 464

Repeal—see Laws Amended or Repealed and particular category

Rescue Squads (see also Ambulances):
Defense counsel, provision by cities and counties of 307
Fire control funds used by county for rescue service, validation of 131
Headlights, electronically modulated 104
Registration plates for members' private vehicles 773

Restaurants:
Cafeterias in public schools 599
Definition 149

Retail Installment Sales—see Sales

Retirement:
Acturial notes to accompany retirement legislation 503
Chapel Hill Telephone Company former employees' retirement benefits 1007
Employment Security benefit qualifications 26

Chapter

Retirement:—continued
Firemen:
Benefits 802
Eligibility for membership in Local Governmental Employees' Retirement System 316
Firemen's Pension Fund—minimum pension, age of retirement, delinquent payments 926
Fiscal Research Divison providing actuarial notes to accompany retirement legislation 503
Higher education optional retirement program, repayment of institutions' share of 1070
Individual retirement plans 900
Judicial Retirement System:
District court judges creditable service 1120
Judges and justices, retired—recall to service 736
Law Enforcement Officers' Benefit and Retirement Fund benefits 1090
Libraries, regional—participation in Local Governmental Employees' Retirement System 318
Local Governmental Employees' Retirement System:
Credit for prior State service 973
Firemen 316
Libraries, regional 318
Teachers' and State Employees' Retirement System:
Benefits 802
Board of trustees expansion 564
Creditable service:
Education, period of absence for 909
Merchant marine 790
Public Health Service, U. S. 790
Death benefits 561
Dependent schools service, purchase of 317
Medical and disability benefits, extension of 24
N. C. Art Society, Inc. 574
Uniform Judicial Retirement Act credit for service as district attorney 936
University Service Plants former employees' benefits 1007

Revenue Sharing, Federal—operating appropriation 802

Revenue, State Department of—Secretary's salary 802

Richmond County:
Airport Commission 170
Board of commissioners election 536
Clerk of court receiving support payments 641
Hamlet, City of—see that heading
Hunting deer with rifles 234

Chapter

Richmond County:—continued
Scotch Fair 169

Richmond Hill Law School Commission—appropriation 1053

Roads—see Streets and Highways

Roanoke Rapids, City of:
Annexation referendum, applicability of State law to 455
Firemen's supplemental retirement fund 312
Sanitary district board elections 269

Robeson County:
District court additional seat 122
Pembroke, Town of—see that heading
Raynham, Town of—see that heading
Rennert, Town of—see that heading
Wound reports 843

Rockford Preservation Society—appropriation 943

Rockingham County:
ABC board contracts with local law enforcement agency 606
Bingo 816
Eden, Town of—see that heading
Wound reports 31

Rolesville, Town of—election of board of commissioners and mayor 346

Rowan County:
Artificial lights in game inhabited areas 500
Hunting:
From public highways 108
With lights 106, 167
Salisbury, City of—see that heading
Spencer, Town of—see that heading
Wound reports 843

Rubella:
Immunization 160
Test for female marriage license applicants 428

Rural Hall, Town of—ABC election 717

Rutherford College, Town of—incorporation 452

Rutherford County:
Coroner, autopsies and death certificates by 189
Ellenboro, Town of—see that heading
Zoo 47

S

Chapter

Safety of Employees—see Workmen's Compensation

Salaries (see also Fees):
Law enforcement officers 931
Magistrates 802, 945
Minimum wage 519
State employees:
Assistant district attorneys, study by Administrative Office of the Courts of 802
Attorney General 802
Cabinet Secretaries 802
Clerks of court 802
Community colleges personnel 802
Cost-of-living raise administration 802
Council of State 802
Department heads, non-elected 802
Employer salary-related contributions 802
Higher education academic personnel 802
Judicial branch officials 802
Lieutenant Governor 802
Magistrates 802, 945
Personnel Act, persons exempt from—salary schedule filing 802
Public defenders 802
Public schools:
Bus mechanics, property and cost clerks 802
Longevity payments 802
Maids, janitors, and principals' clerks 802
Superintendent of Public Instruction 802
Transfers 802
Prepaid legal services payroll deductions 88

Sales (see also Auctions):
Agricultural products, security interest in agricultural property for sales of 508
Alcoholic beverages sold without permits 854
Business opportunities sales, deceptive practices in 884
Foreclosure for unpaid taxes, statute of limitations on recovery actions after 886
Infirmaries of University of N. C. exemption from governmental sales restriction 715
Parks, State—proceeds to be used to purchase park land 1012
Partition sales—unsatisfied liens 833
Retail Installment Sales Act:
Revolving charge accounts security interests 789
Technical amendment 650

Chapter

Sales (see also Auctions):—continued
State land, Department of Administration sale of 425

Sales Tax—see Taxes and Assessments

Salisbury, City of—lease of property 136

Sampson County:
Maps, State requirments for 305
Pistol permits 347
Publication of records 524

Sanford, City of—board of education name change 204

Sanford-Lee County Board of Education—name change 204

Sanitation:
Sanitarians—sunset law 712
Sanitary districts:
Board members compensation 183
Contracts for work, supplies and materials 544
Sewers:
Boards of health regulating small sewage disposal systems 857
Ground absorption sewage disposal 239
Metropolitan Sewage Districts Act petitions 764

Saratoga, Town of—Chief of Police 479

Savings and Loan Institutions:
Electronic funds transfer systems (EFTS) 473
Investments:
Limitations 593
Service corporations 1111
Loan repayment methods 594
Local governments authorized to invest in 575
Service corporations, investments in 1111
Stock-owned 543

Schiele Museum of Natural History and Planetarium, Inc.—
appropriation 954

Scholarships—see Colleges and Universities: Tuition

Schools:
Boards of Education—see Education, Boards of
Buses:
Activity bus drivers' qualifications 1102
Injury payments appropriation 1024
Mechanics, defense by Attorney General of 935
Speed limit for buses carrying children with special needs 791
Cafeterias 599

Chapter

Schools:—continued
Children with special needs:
Special education programs 927
Speed limits for buses carrying 791
Teacher training, redirection of funds for 1009
Transportation:
Funding 1013
Schools with approved programs 830
Speed limits 791
Clerical and guidance personnel fund allocations 802
Community use of public schools 682
Day care facilities in public schools, fence requirements for 1104
Health, physical education, and athletic activities fund allocations 802
Holiday for students on Veterans Day 1128
Kindergartens allocation of funds 1037
Librarians funding 802
Library media personnel appropriation 1088
Orthopedic Hospital, N. C.—operation of school 105
Principals' delegation of responsiblity and duties 539
Reading clinic appropriation by U. N. C. Board of Governors 1094
Salary increases:
Bus mechanics and property and cost clerks 802
Longevity payments 802
Maids, janitors, and principals' clerks 802
Special education 927
Speeding in school zone 902
Superintendents, county or city—vacancies 298
Teachers:
Medical and disability benefits 24
Training for instruction of children with special needs 1009
Tests:
High school graduates 522
Public school students 541
Textbook appropriations, no reversion of 802
Transportation:
Children with special needs/appropriation 830/1013
Supervisors qualifications 314
Veterans Day student holiday 1128
Vocational education, rewrite of laws concerning 490

Science and Technology Committee—transfer 198

Scotland County:
ABC board selection by board of commissioners 558
Ambulance services, obtaining—without intention to pay 63

Chapter

Scotland County:—continued
Artificial lights in game inhabited areas 436
Firearms on public highways 447

Scotland Neck, Town of—compensation of mayor and board of commissioners 276

Secretary of State—see State, Secretary of

Secured Transactions (see also Mortgages and Deeds of Trust, Debtors and Creditors, and Liens)—agricultural products sales 508

Securities:
Dealers and salesmen, registration of—sunset law 712
Exemption, investigations, and venue for judicial review 610
Registration exemption for limited partnership operating rental housing 162
Tender Offer Disclosure Act 781

Security Guards:
Authority to use mace 126
Company police technical amendments 148

Sedimentation Pollution Control:
Civil actions 852
Sunset law 712

Serial numbers—alteration or removal from personal property 767

Service Districts, Municipal—see Municipal Corporations

Service of Process—see Civil Procedure and Criminal Procedure

Session Laws (see also Laws Amended or Repealed)—disposal of surplus 380

Sewers—see Sanitation

Shakespeare Festival, N. C.—appropriation 986

Sheriffs—see Law Enforcement Officers

Smithfield, Town of—West Smithfield Sanitary District zoning 489

Snow Hill, Town of—charter 58

Social Services:
Aid to Families with Dependent Children:
Moving recipients 654
Recipients required to accept reasonable employment 362
Blind—see Handicapped Persons
Decedents, checks made payable to 655
Food stamp pilot programs appropriation 1081
Foster-care board rate increase appropriation 1015
Fraud, welfare 604
Health and welfare agencies, non-State—requests for grants 802

Chapter

Social Services:—continued
Medicaid:
Eligibility, land transfer to gain 595
Fiscal intermediaries or prepaid health services contractors 537
Medical cost containment study 968
Payment schedules 802
Third party insurance benefits:
Acceptance of benefits constituting assignment to State 664
Collection operation appropriation 1095
Medical services (non-Medicaid) programs, State:
Adjustments in requirements 802
Payment schedules 802
Public assistance:
"Dependent child" definition 1127
Financing 1089
Welfare fraud 604

Social Services Commission:
Medicaid:
Extension of authorization to utilize fiscal intermediaries or prepaid health services contractors 537
Ineligibility when land transferred to qualify 595
One member from each congressional district 516

Soil Additives—regulation of 233

Soil and Water Conservation Districts:
Debts, maximum term of 483
Supervisors appointment date 387

Solar Energy, Heating and Cooling Systems:
Ad valorem property tax classification 965
Income tax credit 792

Solicitation—see Charities

Solicitors—see District Attorneys

Solid Waste—regulation by local units of government 123

Southern Pines, Town of—assessments for street improvements 418

Sovereign Immunity—see Torts and Tortfeasors

Speech and Language Pathologists—see Licenses and Licensing

Spencer, Town of—corporate limits 59

Spring Lake, Town of—charter 742

Stanly County:
Albemarle, City of—see that heading
Cosmetologists, regulation of 155
Equalization and review board 79

Chapter

Stanly County:—continued
Locust, Town of—see that heading
Wound reports 31

Stanly County Albemarle Historic Properties Commission—appropriation 1045

State Bureau of Investigation—see Law Enforcement Officers

State Commissions, Committees and Councils—see Commissions, Committees, Councils and Boards; and particular category

State Employees—see Employees, State

State Farm Operations Commission—re-creation 1122

State Parks Study Commission—creation 1030

State, Secretary of:
Publications, State—price of 802
Salary 802
Session Laws, disposal of surplus copies of 380

Statesville, City of:
Charter 289
Rights of way beyond corporate limits 56

State University, N. C.—see Colleges and Universities

Statistics—see Vital Statistics

Sterilization—physicians' consultation not required 7

Stokes County:
Coroner 348
Hunting deer 434
Trapping 765
Wound reports 843

Streets and Highways:
Bonds, highway construction—referendum 643
Condemnation for secondary roads improvements 460, 780
Disposal of surplus grading materials 338
Highway Patrol, State—turns through highway medians 731
Residential and subdivision street improvements, county bond revenues for 811
Signs:
Directional signs exemption from federal removal requirements 639
Historic Albemarle Tour 504

Strike at the Wind Drama—appropriation 986

Students—see Schools, and Colleges and Universities

Studies—(see also Commissions, Committees, Councils and Boards; particular category; and Resolution Index):

Chapter

Studies—continued
Assistant district attorneys' salaries 802
Commissions, study—identification of funding sources 802
Consumer products safety 1036
Highway shoulder paving 802
Insurance laws 1028
Law Enforcement Officers Benefit and Retirement Fund 972
Liability insurance for law enforcement officers 979
Medical cost containment 968
Meetings of governmental bodies 959
Mental Health Study Commission extension 184
Public school matters 972
Regional councils of government 1097
Specialty hospitals 802
State parks 1030

Subpoenas—see Civil Procedure

Sunset Law—contingent termination of certain State agencies/ appropriation 712/1018

Surety Bonds:
Bail bondsmen, regulation of—sunset law 712
Guardians, exclusion of money in computation of bond for 992
Insurance brokers 868
Personal representatives:
Exclusion of money in computation 870
Waiver 29
State agencies 802

Surry County:
Ambulance services, garnishment for 64
Hunting:
From public highways with firearms 181
With lights 167
Mt. Airy, Town of—see that heading
Wound reports 843

Surveyors—sunset law 712

Swain County—absentee ballots in board of education election 91

Symphony Society, N. C.:
Administration of State grant 802
Appropriation 1006

Chapter

T

Tar Heel Junior Historian Association—appropriation 980

Taxes and Assessments:
Ad valorem property taxes:
Abstracts, payments and appeals filed when postmarked 327
Discovered property 864
Equalization and review, county boards of 863
Evasion, punishment for 92
Foreclosure sales, statute of limitations on actions to recover property after 886
Foreign trade zones, property located in 782
Grace period 630
Historic properties 869
Homestead exemption allowable income 666
Household personal property classification 1000
Listing period, extension of 360
Solar energy heating and cooling systems 965
Technical amendment 148
Warehouses, property stored in public 1001
Appeals to Property Tax Commission filed when postmarked 327
Assessments:
Aged, postponement of collection from 203
Disabled persons, postponement of collection from 203
Discovered property 864
Forest products, primary 573
Seafood industry, notice of assessment for promotion of 356
Cigarette tax "interstate business" definition 874
Deaf persons exemption 898
Discrimination, sexual—revenue law amendments 309
Evasion of property tax, punishment for 92
Exemptions:
Bonds issued by hospital authorities 268
Chronic renal disease, persons with 1101
Household personal property 1000
Military family protection plans inheritance taxes 1025
Religious institutions, public parking without reduction of exemption for 867
Surviving spouse 1004
Grace period for ad valorem property taxes 630
Income taxes:
Credits:
Solar heating and cooling systems 792
Insulation 792
Deductions:

Chapter

Taxes and Assessments:—continued
Income taxes:—continued
Civil Air Patrol, contributions to 890
Historic property rehabilitation 487
Individual retirement accounts, annuities, or bonds 900
Exemptions:
Bonds issued by hospital authorities 268
Chronic renal disease, persons with 1101
Deaf persons 898
Involuntarily converted real property replacement period 486
Personal representatives of decedents, election of property for federal income tax purposes by 556
Wages withheld for December 488
Inheritance taxes:
Exemptions:
Military family protection plans 1025
Surviving spouse 1004
Gifts within three years of donor's death 918
Retirement plans, distributions from individual 900
Insulation tax credit 792
Interest on tax assessments 1114
Mill machinery maximum sales tax 903
Payments of property tax filed when postmarked 327
Recovery of taxes 946
Refunds 946
Retirement accounts, individual 900
Revenue laws technical amendments 657
Sales and use taxes:
County commissioners may levy if no election has been held in five years 372
Hospital purchases of medicine and drugs, refunds for 895
Mill machinery 903
Solar heating and cooling systems:
Ad Valorem property tax classification 965
Income tax credit 792
Warehouses, property stored in public 1001

Teachers—see Schools

Teachers' and State Employees' Retirement System—see Retirement

Technical Institutes—see Colleges and Universities: Community Colleges, Technical Institutes and Industrial Education Centers

Telephones—see Utilities and Utilities Commission

Testing Commission—creation 541

Chapter

Textbook Commission—expansion 1113

Ticket Scalping—see Crimes

Tile Contractors:
Regulation of 143
Sunset law 712

Timber—see Forests

Tips—see Labor

Topsail Beach, Town of—Board of commissioners' terms 272

Torts and Tortfeasors:
City and county employees, judgments against 834
Tort Claims Act negligence and limits 529

Trailers—see Motor Vehicles

Tramways, Passenger—sunset law 712

Transportation:
Airports—see Airports and Aircraft
Employees transportation exemption from regulation under public utilities laws 217
Human tissues and organs, vehicles equipped with red lights and warning devices for transporting 438
Nuclear fuel, spent—notification to Highway Patrol 839
Public transportation:
Authorities 465
Counties authorized to issue bonds 402
State programs 341
Systems included in definition of "public enterprise 514
Railroads:
Revitalization, participation in federal programs for 584
Seaboard Coastline Building museum 607
Supervisors' qualifications 314

Transportation, State Board of:
Load capacity for bridges 306
Public transportation, State agency responsible for 341
Reorganization 464

Transportation, State Department of:
Airport improvement grants 802
Bicycle Committee, N. C.—creation 1021
Condemnation for secondary roads improvements 460, 780
Highway Patrol transfer 70
Highway shoulder paving study 802
House movers, regulation of 720
Navigation and Pilotage Commissions transfer 65

Chapter

Transportation, State Department of:—continued
Ports Authority, N. C.—transfer 65
Railroad revitalization, participation in federal programs for 584
Reorganization 464
Secondary Roads Council abolished 464

Transylvania County:
Ambulance services:
Garnishment 64
Obtaining services without intention to pay 63
Brevard, Town of—see that heading
Employees' salaries 151
Equalization and review board 264
Motor vehicle license tax 433, 880

Treasurer, State:
Facsimile signature 401
Housing Finance Agency transfer 673
Local government unemployment compensation pool account 1124
Salary 802

Trucks—see Motor Vehicles

Trusts and Trustees:
Business trusts, conveyance of real property by 768
Charitable trust conformity with Internal Revenue Code 760
Compensation of trustees and fiduciaries 814
Trusts, rewrite of laws concerning 502

Tuition—see Colleges and Universities

Tyrrell County:
Ambulance services, garnishment for 64
Hunting bear 164
Mapping 221

U

Unfair Trade Practices—see Consumer Protection

Uniform Commercial Code—financing statements:
Continuation statement 295
Timber 156

Union County:
Ambulance services:
Garnishment 64
Obtaining services without intention to pay 63
Bingo 157
Cosmetologists, regulation of 155

Chapter

Union County:—continued
Eminent domain 293
Equalization and review board 275
Waxhaw, Town of—see that heading
Wound reports 843

University of N. C.—see Colleges and Universities

Usury—see Loans and Interest

Utilities:
Carriers:
Exemption for transportation of employees 217
Financial responsibility 920
"Private protective services", definition of 481
Rates, uniform 219
Chattel mortgages, recordation of 103
Meters, tampering with 735
Municipal corporations generating electricity:
Joint Municipal Electric Power and Energy Act amendments 385
Joint ownership with private entities:
Proposed constitutional amendment 528
Statutory changes 708
Peak load pricing 232
Original cost of property used in providing service, setting of rates utilizing 691
Peak load pricing by municipal corporations 232
Public official transacting business with utilities 240
Rates:
Carriers 219
Original cost of property utilized 691
Peak load pricing by municipal corporations 232
Telephone monitoring equipment 799
Transportation of employees, exemption from regulation under public utilities laws for 217

Utilities Commission, N. C.:
Attorneys on Commission, minimum number of 913
Executive Director 802
Hearing transcript fees 1003
Staff to represent consumers 468

V

Valdese, Town of—charter 847

Valentine's Day—florists exemption from maximum hour law 146

Chapter

Vanceboro, Town of—election of public officials, residency technical change 722

Vance County:
ABC board membership 801
Henderson, City of—see that heading
Sandra Dupree trial reimbursement 1062

Vending machines—breaking into currency-operated machines 723, 853

Venue—see Civil Procedure

Veterans (see also Armed Forces):
Jobs for Veterans Committee, Governor's—creation 1032
Veterans Affairs Commission—see that heading

Veterans Affairs Commission:
Duties 622
One member from each congressional district 637

Veterans Day—school holiday 1128

Veterinarians—sunset law 712

Vital Statistics:
Death certificates, certified copy fee for 310
Records, vital—certified copy fee 1110
Registrar of Vital Statistics, State 163

Voting—see Elections

W

Wake County:
Board of education 321
Bureau of identification 350
Cary, Town of—see that heading
Coroner 114
Garner, Town of—see that heading
Medical center parking deck 135
Raleigh, City of—see that heading
Rolesville, Town of—see that heading
Wound reports 31

Walnut Creek, Village of—annexation 55

Wanchese Harbor Citizens Advisory Council—creation 612

Warranties—foreign car distributors 185

Warren County—coroner 94

Wastewater Treatment Plant Operators Certification Commission—sunset law 712

Chapter

Watauga County—hunting:
Boar ... 68
Deer ... 441
Foxes ... 496

Watchmakers—sunset law ... 712

Water—see Environment and Sanitation

Water Treatment Facility Operators—sunset law ... 712

Water Well Contractors—sunset law ... 712

Waxhaw Historic Festival—appropriation ... 986

Waxhaw, Town of—alcoholic beverage control election ... 57

Wayne County:
ABC board appointed by board of commissioners ... 665
Bingo and raffles ... 365
Goldsboro, City of—see that heading
Hunting:
Deer:
From boats ... 493
With dogs ... 43
With rifles ... 45
From public highways ... 46
Trapping ... 695
Mt. Olive, Town of—see that heading
Pikeville, Town of—see that heading
Walnut Creek, Village of—see that heading
Wound reports ... 843

Weapons:
Assemblies where alcoholic beverages are sold and consumed ... 1016
Concealed weapons, off-duty law enforcement officers possessing ... 616
Felons, possession by ... 1105
Mace, security guards possessing ... 126
Mass death and destruction, weapons of ... 810

Webster, Town of—elections ... 171

Weightmasters, Public—sunset law ... 712

Welfare—see Social Services

Wendell-Knightdale Airport Authority—creation ... 689

Western Carolina Specialty Hospital—see Hospitals

Western N. C. Heritage Center—appropriation ... 944

Whiteville, City of—selection of Board of Education ... 172

Wildlife (see also Wildlife Resources Commission):
Animals, regulating possession of dangerous ... 407

Chapter

Wildlife (see also Wildlife Resources Commission):—continued
Beaver, conservation of 705
Buffalo, exemption from "no open season" status for 499
Cougars, killing of 794
Game Law of 1935, N. C.—sunset law 712
Management plan for State-owned land 759

Wildlife Fund, State—surplus collections 802

Wildlife Resources Commission, N. C.:
Boat safety regulations 424
Enforce local laws 120
Restructured 906
Trapping, regulation of 933
Wildlife management plan for State-owned land 759

Wilkes Community College—see Colleges and Universities

Wilkes County—North Wilkesboro, Town of—see that heading

Wills (see also Decedents' Estates):
Custody and tuition of minor children 713
Distribution of assets by executor or trustee 740
Divorce, effect on will of 74
Personal representatives, waiver of bond for 29
Self-proving 795

Wilmington, City of:
Charter 495
Corporate limits 454
Junior traffic officers' outing 17

Wilson, City of:
Street improvements 38
Tree regulation 328

Wilson County:
Lucama, Town of—see that heading
Saratoga, Town of—see that heading
Wilson, City of—see that heading

Wines—see Alcoholic Beverages

Winston-Salem, City of:
Employees' retirement, prior service credit for 251
Fire-Public Safety Retirement Fund Association 15
Utility commission 222

Women, Council on the Status of—membership 818

Women's Rights—see Discrimination

Working Hours—see Labor

Chapter

Workmen's Compensation:
ABC volunteer officers 908
Appeals, payments pending 521
Communications with physicians 511
Costs taxed against the parties 456
Death of minor without dependents, compensation for 893
Disability benefits 651
Disfigurement, compensation for 892
Hearing site provided by county commissioners 743
Industrial Commission, N. C.
Appeals, payment pending 521
Attorneys, out-of-State 430
Costs taxed against the parties 456
Deputy Commissioner in review of cases 390
Hearing site provided by county commissioners 743
Review of award, time period for notice of 431
Subpoenas, service of 505
Physicians' communications not privileged 511
Proximate cause of injury 409
Review of award, time period for notice of 431
Second injury fund 457
"Widower" definition 419

Worthless checks:
Magistrates, cases heard by 873
Nonexistent or closed accounts 885

Wounds—reporting in certain counties 31, 843

Wrightsville Beach—berm improvement appropriation 1026

Y

Yadkin County:
Ambulance services:
Garnishment 64
Obtaining services without intention to pay 63
Board of commissioners election 208
Maps, validation of recordation of 480
Trapping 765

Yancey County—motor vehicle license tax 433

Yanceyville, Town of—sanitary district board terms 283

Youth Advisory Council—membership, terms 510

Youth Services Advisory Committee—creation 627

Youth Services, Commission of—abolished 627

Youth Unlimited, Inc.—appropriation 1005

INDEX TO THE RESOLUTIONS
1977 GENERAL ASSEMBLY

Resolution Number

A

Adjournment—Adjournment in 1977, to reconvene in 1978 75

Aging:
Congress urged to finance White House Conference on 81
Study 86

Allen, Dennis Wilbert 64

American Drew, Inc. 67

Art—see Cultural Resources

Ashbrook High School Basketball Team 46

Austin, William Bryant, Sr. 50

B

Baker, John Haywood, Jr. 56

Bicycle Registration Study 77

Budget, Balanced—Congress urged to require 97

Burgwyn, W. H. S., Sr. 8

C

Cameron, Billy Ray 43

Campbell, J. A.—homeplace restoration 60

Capitol, State—joint session of the General Assembly 49

Carpenter, Carl Grady 59

Celebrations—see Commemorations and Celebrations

China, Republic of—U.S. urged to maintain diplomatic relations and treaty 72

Chrysalis Women's Club 79

Clayton High School Basketball Team 11

Commemorations and Celebrations (see also Commendations):
American Drew, Inc. 67
Halifax Resolves 32
Library Week, National 9

Resolution Number

Commemorations and Celebrations (see also Commendations):—continued
Public Health Centennial 53
Queen Elizabeth II—Silver Jubilee 55
Secretaries' Week, National 39
Shrine Hospital Weekend 37

Commendations (see also Commemorations and Celebrations):
Baker, John Haywood, Jr. 56
Basketball teams:
Ashbrook High School 46
Clayton High School 11
Gaston Day School Girls 46
Hunter Huss High School 46
Pantego High School 30
Pinecrest High School Girls 51
UNC - Chapel Hill 23
UNC - Charlotte 22
Wake Forest-Rolesville High School Girls' & Boys' 66
Cameron, Billy Ray 43
Chrysalis Women's Club 79
Dance Theatre, N. C. 31
East Bladen High School Senior Band 13
Fayetteville State University 25
Floyd, Raymond 24
Football teams:
Franklin High School 7
High Point Andrews High School 21
Pisgah High School 7
Robbinsville High School 7
Gillikin, Fred G. 4
Harnett County Historical Society 60
Harper, Margaret E. 48
Lane, Archie Travers, Sr. 45
New York Yankees 44
Raleigh Women's Club 79
Smithfield Bicentennial 10
Student Legislature, N. C. 12
Tarboro—"All-America" City 35
Wilson, Louis Round 28

Commercial Fish Industry Study 88

Commissions (see particular heading):
Criminal Code Commission

Resolution Number

Commissions (see particular heading):—continued
Employment Security Commission
Legislative Research Commission—see General Assembly
Utilities Commission

Congress, U. S.—see United States Government

Conservation Law Study 84

Crawford, Robert Glenn 52

Credit and Interest Law Study 90

Criminal Code Commission—continued 70

D

Dance Theatre, N. C. 31

Davidson, General William Lee 41

Deceased Persons (see also General Assembly: Deceased former members):
Allen, Dennis Wilbert 64
Crawford, Robert Glenn 52
Davidson, General William Lee 41
Pearson, James Larkin 17
Spinnett, Dennis Franklin 52
Stacy, John Benton 58
Williamson, Henry E. 54

E

East Bladen High School Senior Band 13

Education, State Board of:
First aid training study 73
Membership confirmation 40
School funds allocations study 91

Employment Security Commission—urged to issue income tax information 57

Energy:
Congress urged to consider energy proposals 65
President urged to declare national emergency and establish long-range national plan 36

F

Fayetteville State University 25

Resolution Number

First Aid—State Board of Education urged to encourage training 73

Floyd, Raymond 24

Franklin High School Football Team 7

French Broad River State Park 76

G

Gaston County—basketball center of North Carolina 46

Gaston Day School Girls' Basketball Team 46

General Assembly:
- Adjournment 75
- Deceased former members:
  - Austin, William Bryant, Sr. 50
  - Burgwyn, W. H. S., Sr. 8
  - Carpenter, Carl Grady 59
  - Graham, Alexander Hawkins 42
  - Killian, Dr. Carl Dan, Sr. 27
  - Little, Hal W., Jr. 14
  - O'Neal, Dick 68
  - Rodman, William B., Jr. 5
  - Tolbert, Homer Brown, Sr. 6
  - Warren, Lindsay Carter 20
- Joint sessions:
  - Capitol Building 49
  - Education, State Board of—membership confirmation 40
  - Invitations to address, Governor:
    - January 17, 1977 1
    - January 31, 1977 2
  - University of North Carolina, Board of Governors of:
    - Nomination of 38
    - Procedures 19
  - Utilities Commission appointees confirmation 33
- Legislative Research Commission Studies (see also Session Law Index):
  - Aging 86
  - Bicycle Registration 77
  - Commercial Fish Industry 88
  - Credit and Interest Law 90
  - Health Education (HEED) Project 69
  - Horse Racing 89
  - Housing and Building Codes 92
  - Inventory Tax 74
  - Land Development Code 87

Resolution Number

General Assembly:—continued
Legislative Research Commission Studies (see also Session Law Index):—continued
Lieutenant Governor's Duties 93
Physicians' Assistants and Nurse Practitioners 96
Public School Law Recodification 98
Revenue Laws 85
Sea World 83
Sports Facility 99
Water Resources Development Projects 95
Legislators home district as tax sites—Congress urged to designate 15
Resolutions limited 16
Studies:
Aging 86
Bicycle Registration 77
Commercial Fish Industry Study 88
Conservation Law 84
Credit and Interest Law 90
Health Education (HEED) Project 69
Horse Racing 89
Housing and Building Codes 92
Inventory Tax 74
Land Development Code 87
Lieutenant Governor's Duties 93
Motor Vehicle Property Taxes 94
Physicians' Assistants and Nurse Practitioners 96
Public School Law Recodification 98
Revenue Laws 85
Rules of the General Assembly 78
Sea World 83
Sports Facility 99
Water Resources Development Projects 95

Gillikin, Fred G. 4

Governor Invited to Address General Assembly:
January 17, 1977 1
January 31, 1977 2

Graham, Alexander Hawkins 42

H

Halifax Resolves 32

Harnett County Historical Association 60

Index to Resolutions

Resolution Number

Harper, Margaret E. 48
Health Education (HEED) Project Study 69
Helmets—see Motorcycle Helmets
High Point Andrews High School Football Team 21
History—see Cultural Resources
Horse Racing Study 89
Housing and Building Codes Study 92
Hunter Huss High School Basketball Team 46

I

Infant Mortality Study 80
Insect Sting Kits Containing Epinephrine—FDA urged to permit 71
Inventory Tax Study 74

K

Killian, Dr. Carl Dan, Sr. 27

L

Land Development Code Study 87
Lane, Archie Travers, Sr. 45
Legislative Research Commission—see General Assembly
Library Week, National 9
Lieutenant Governor's Duties Study 93
Lifeline Utility Rates—Utilities Commission study 63
Little, Hal W., Jr. 14

M

Medicare Reimbursements for Physician Extenders—Congress urged to provide 29
Mine and Quarry Safety Program—Congress urged to continue State administration 62
Motion Picture Previews 26
Motorcycle Helmets—improved safety urged 34

Resolution Number

Motor Vehicle Property Tax Study 94

N

Natural and Economic Resources, State Department of— accept federal funds for State park on French Broad River 76

Natural Gas—Congress and President urged to provide additional supplies to North Carolina 3

New York Yankees 44

O

O'Neal, Dick 68

P

Pantego High School Basketball Team 30

Pearson, James Larkin 17

Physicians' Assistants and Nurse Practitioners Study 96

Physician Extenders—Congress urged to provide Medicare reimbursements 29

Pinecrest High School Girls' Basketball Team 51

Pisgah High School Football Team 7

Property Taxes—see Taxation

Public Health Centennial 53

Public School Law Recodification Study 98

Q

Queen Elizabeth II—Silver Jubilee 55

R

Raleigh Women's Club 79

Resolutions Limited in General Assembly 16

Revenue Laws Study 85

Robbinsville High School Football Team 7

Rodman, William B., Jr. 5

Rules of the General Assembly Study 78

Index to Resolutions

Resolution Number

S

Saccharin—Congress urged to override FDA ban 61

Schools:
- First aid training study 73
- Funds allocations study 91
- Public school law recodification study 98

Sea World Study 83

Secretaries' Week, National 39

Shrine Hospital Weekend 37

Smithfield Bicentennial 10

Spinnett, Dennis Franklin 52

Sports Facility Study 99

Stacy, John Benton 58

Student Legislature, N. C. 12

Studies:
- Aging 86
- Bicycle Registration 77
- Commercial Fish Industry Study 88
- Conservation Law 84
- Credit and Interest Law 90
- Health Education (HEED) Project 69
- Horse Racing 89
- Housing and Building Codes 92
- Infant mortality—State Coordinating Council study 80
- Inventory Tax 74
- Land Development Code 87
- Lieutenant Governor's Duties 93
- Lifeline utility rates—Utilities Commission study 63
- Motor Vehicle Property Tax 94
- Physicians' Assistants and Nurse Practitioners 96
- Public school law recodification 98
- Revenue Laws 85
- Rules of the General Assembly 78
- School Funds Allocations—State Board of Education study 91
- Sea World 83
- Sports Facility 99
- UNC Faculty Work Load and Tenure 82
- Water Resources Development Projects 95

Index to Resolutions

Resolution Number

T

Tarboro—"All-America" City 35

Taxation:
Income taxes:
Congress urged to designate State legislators home district as tax site 15
Employment Security Commission urged to issue income tax information 57
Inventory taxes—Legislative Research Commission study 74
Property taxes:
Congress urged to consider payments in lieu of taxes to local units of government 47
Motor vehicle tax study 94

Tolbert, Homer Brown, Sr. 6

U

United States Government:
Aging—Congress urged to finance White House Conference on 81
Budget—Congress urged to require balanced 97
China, Republic of—U.S. urged to maintain diplomatic relations and treaty 72
Energy:
Congress urged to consider energy proposals 65
President urged to declare emergency and establish long-range national policy 36
Insect sting kits containing epinephrine—FDA urged to permit 71
Medicare reimbursements for physician extenders— Congress urged to provide 29
Mine and Quarry Safety Program—Congress urged to continue State administration 62
Natural gas supplies for North Carolina—Congress and President urged to provide 3
Property taxes—Congress urged to consider payments in lieu of taxes to local units of government 47
Saccharin—Congress urged to override FDA ban 61
State legislator's home district as tax site—Ways and Means Committee OF U.S. House of Representatives urged to approve legislation 15
Veterans' benefits—Congress urged to protect 18

University of North Carolina:
Board of Governors:
Faculty work load and tenure study 82
Nomination 38
Procedures 19

Resolution Number

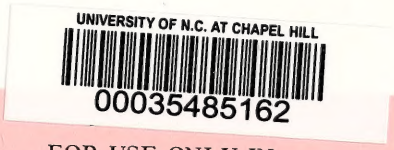
University of North Carolina:—continued
Chapel Hill—basketball team 23
Charlotte—basketball team 22
Faculty work load and tenure study 82
Utilities Commission:
Appointees confirmation 33
Lifeline utility rates study 63

V

Veterans' Benefits—Congress urged to protect 18

W

Wake Forest-Rolesville Girls' and Boys' Basketball Teams 66
Water Resources Development Projects Study 95
Warren, Lindsay Carter 20
Williamson, Henry E. 54
Wilson, Louis Round 28



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